THE
MADRAS REVENUE REGISTER.

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FINANCIAL ECONOMY.

Whatever may be the prevailing notions on the great questions of financial economy in the Council Chamber of our Imperial Government in Bengal, whether steaming within the delta of the Ganges, or luxuriating among the rhododendrons on the Himalayas, there is now no doubt that British doggedness and the mistaken maxim of "*whatever is is right*" are the predominant principles brought to bear on Indian finance in the imposing fabric, which, in lieu of the exploded structure in Leadenhall Street, has recently been raised on the confines of old Broad Sanctuary in historic Westminster. We are not surprised that a much over-rated Indian statesman like Lord Lawrence, who rose to eminence on the hidden laurels of his able lieutenants, and under whose disappointing rule the iniquitous tax on justice spread its baleful and poisonous breath through the land, should cordially approve of the continued imposition of the Income-tax and the erection of palatial barracks to be paid for by a war-tax when there is no war; but we wonder to find, making every allowance for highland hard-headedness in the descendant of Macallum Mohr, that an English statesman, not trammelled by local prejudices, should vindicate the continuance of an imposition which he himself acknowledges to be an imposition, and should even advocate its becoming a permanent institution of the country, provided it be "kept within reasonable limits." Our astonishment and disappointment can only be all the greater when the descendant of the celebrated Cecil, Lord High Treasurer of glorious Elizabeth of England, calmly views our Indian finance as satisfactory on the whole, even while he laments its chronic defects of uncertainty; making no demur whatever to unjustifiable impositions at a time when amateur financiers have at last succeeded in blundering through their difficulties, and have finally discovered that, so far from there being any deficit, there is actually a substantial surplus in the Imperial revenues. One would have thought that, on the discovery of the real state of affairs, a Government, claiming for itself the characteristics of enlightenment, would proceed at once to abrogate measures, well known to be utterly obnoxious and unjustifiable, so soon as the unworthy pretext of their absolute necessity was ascertained to have no longer any foundation. If the voice of public opinion had the least weight with our rulers, the Income-tax, extremely partial in its application and demoralizing in its working, would be numbered with the things of the past, and taxation of justice would be reduced to the only limits within which it is at all defencible, namely, that the suitor should contri-

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bute his quota to the maintenance of an establishment, which it is the first duty of every civilized State to maintain for the public good, whether the suitor contributes any share of the expense or not. This would be the course of a truthful and honest Government, actuated by purely English principles of action; but we are afraid, taking events as they happen, that we must not hope for British ideas "*pur et simple*" being the all-prevailing ingredients in Indian Statecraft. We are beginning to think that to expect such a state of purity of action in India is quite Utopian; and that, just as the bare atmosphere of India, with rare and truly honourable exceptions, seems to un-English an Englishman, so must the conservatism of Mogul avarice need infect the dealings of the State with its subjects, in no way responsible for the alarming but really delusive stages of official impecuniosity. Thus, even when, in his long-expected Financial Statement, his grace the Duke of Argyll announced in the House of Lords that the surplus of 1869-70 would amount to 14 lacs of rupees, or £140,000 sterling, he nevertheless declared that "he could not see why the Income-tax should not be a permanent institution in Indian finance when kept within reasonable limits." And this, in spite of the oft-repeated remonstrances from independent quarters that the tax is highly obnoxious, unequal in its incidence, and utterly unsuited to the circumstances and people of the country. An income-tax, even if it were not so unsuited to this country as it really is, could only be justified on the ground of absolute necessity; but here, we have the real ruler of this great empire declaring that he would have it for all time, even although there is an actual *boná fide* surplus, and although there are abundant other opportunities of equalizing income with expenditure if such be required. What is this but trifling with the splendid heritage which such men as Clive have created for the British Crown, especially at a time when the schoolmaster is abroad, and the people of the country are beginning to be conscious of a people's rights and of the fact that there are other European powers, besides the English nation, who are competent and anxious to succeed to the protectorate of a territory teeming with millions and exhaustless in resources. And there is a strange inconsistency in thus setting at defiance public opinion and the wishes of the people; for, while the powers that be do not hesitate to oppress, with a fearless hand, professional and business men and traders who earn their bread with the sweat of their brow, they shrink from calling on that portion of Her Majesty's subjects who sit at home in idleness and ease, and are best able out of their overflowing in-comings to contribute to the maintenance of the State, whose very existence is a security for the peaceful enjoyment of their immensely increased prosperity. The bugbear to support this false sentiment is respect for Lord Cornwallis' permanent settlement. "How can we," ask Calcutta and Calcutta-influenced Home politicians, "infringe a solemn treaty entered into, in our name, with the Talukdars and Zemindars of Bengal?" There is a fallacy in this proposition; but we, in our turn, would ask our rulers, "Do you now get credit with the people at large for this chivalrous sentiment and pretended fidelity to the so-called treaty, as expressive of the truthfulness of the English nation; or do you not think that your overscrupulousness is likely to be attributed to a sentiment of fear rather than a regard for even-handed justice?" Is it very unreasonable to suppose that some such reflections as these are passing in the native mind? "With the Russians treading on your toes on the other side of the Himalayas, you do not mind making exac-

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tions from peaceful business and professional men in the towns; but you are afraid honestly and fairly to call upon the Zemindars to contribute like other subjects to the exigencies of the State, lest these powerful landholders might stir up sedition in the rural and unsettled districts of the North, and make easy passages for the entrance of a dreaded neighbour!"

If the British Indian Government desires to be esteemed a just, impartial, faithful, and withal firm Government, knowing no fear on the one hand and knowing no favour on the other, the question of the permanent settlement of Bengal is a question that it should grap and discuss with courage and resolution for the great purposes of financial economy. It should not shirk this great duty which it owes to the millions committed to its rule, simply because the Zemindars choose to put an interpretation on the settlements effected with them, which such settlements cannot in reason and equity bear. We do not here advert to the difficult question, whether the legislation of one generation is so adamantine in its effect that it must bind with everlasting chains all generations to come. We confess that the question is so deep that we, for our part, hesitate to approach it; but, how great soever the depth and difficulty may be, that circumstance does not relieve our Statesmen from the duty of considering it for the good of the empire. But it seems to us that the exigencies of the day do not require that this great question should be actually dealt with at present. It appears to us to be sufficient to deal with the Zemindars of Bengal only up to our existing need. If we apprehend aright, these landholders claim, by virthe of an arrogant assumption of complete lordship of the soil, absolute immunity from all contribution whatever to the exigencies of the State, and assert that the miserable peishcush fixed by Lord Cornwallis being paid by them, they cannot be called upon to contribute in any way to funds required for public and State purposes. Thus they claim entire exemption from any income-tax whatever, from any road cess, or from any taxation for educational purposes. All these burdens are to be borne by the general public, while they are to riot in the luxuriance of their increased and increasing profits, without the shadow of the tax-gatherer crossing the threshold of their pretentious dwellings. This is very tall talking, which ought to be put down with a firm and vigorous hand, and with action at once prompt and decisive. All subjects of the realm should understand that the duty of contributing to the maintenance and efficiency of the State is a duty that lies equally on every member of the body politic; and there should be no hesitation in making these recalcitrant feudatories know that, equally with every other citizen, they must bear an income-tax if there is to be an income-tax; that, like the landholders of the other Presidencies, they must contribute funds for maintaining the communications of the country, and for elevating their fellow-subjects by means of public education. What is done in Ryotwar Madras without any imputation of breach of faith with the cultivator, may be done in the permanently settled districts of Bengal, on the principle of preserving the division of the landlord's share between the Government and the middleman according to the improved circumstances of the day. What we said in May last we repeat now, that the State has a perfect right to raise the assessment, because the original proportion, ascertained on a certain principle of calculation according to the market of the day, has been disturbed by recent advancement in the material prosperity of the country, which prosperity is not the consequence of the good management, or industry, or outlay of the middlemen themselves, but is attributable either to direct State

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intervention, or the increased advantages of higher civilization, or the improved markets of the world. With growing calls upon the State for greater expenditure to meet the increasing wants of the age, the State has a right to say to these middlemen, "When we fixed the payments to be made by you to our exchequer, we calculated the amount so payable on a certain fair proportion of the profits of the land between yourselves and us; times have now considerably changed, and the proportion is disturbed; we want more money, and you have a larger share of profits than we agreed upon; it is nothing but fair that we should restore that just proportion according to the actual profits now realized from the land."

So long as the Government turn a deaf ear to the voice of public opinion, and fail to apply the remedy which is not only feasible, but which is loudly called for in justice both to the people and country, it is simply premature to talk of initiating reforms in order to introduce the element of self-government among the community. While Bengal administrators are behind the age, we are certainly too fast in Madras to suggest self-government, even on such partial measures as a Towns' Improvement Bill and a Local Funds' Bill. The latter especially was conceived in Madras in view of the immediate abrogation of the income-tax. With the very laudable object of relieving the Imperial finances at a period of pressure, Lord Napier's Government proposed to raise local funds for purposes of public utility, such as the maintenance of roads and communications, and the diffusion of elementary education among the masses. These funds were to be administered by local committees on the principle of self-government; but, after the principle had been ventilated, a change comes over the spirit of the legislative dream, the committees are to be reduced to the position of respectable dummies, and the Collectors are to be the real administrators, albeit that they may avail themselves of the advice and experience of local committees! We are glad to see that two independent men, supported by a third, have manfully come forward to denounce this farce. In the plainest language, the Hon'ble John Bruce Norton and the Hon'ble P. Macfadyen, supported by the Hon'ble A. F. Brown, declare their opinion that, as the proposed committees are to be reduced to the merest *nominis umbræ*, it would be far better to discard them altogether, and throw the entire working on the Collectors of districts; and, what is still more worthy of notice, Mr. Norton at least does not fail to point to the real question at issue, namely, whether it is fair and proper to pass these bills into law at all, in the face of a $3\frac{1}{8}$ per cent income-tax, the present financial system, and the policy of centralization. We may safely leave the discussion of this question to the bold and experienced mind that has thus grappled with it, and content ourselves with pointing out that, while Bengal Statesmen are stumbling over the permanent settlement of Lord Cornwallis, much may still be done in Madras to relieve financial pressure, to pave the way for the entire removal of an impost that will never but be obnoxious to the feelings, and hateful in the eyes, of the general public. Discard at once and for ever the absurd notion of building palatial jails at an enormous expenditure for the luxurious comfort of the wretched felons of the country. While honest men live in miserable little huts and feed on scanty fare, do not be so absurd as to offer a tempting premium to evil-minded men to long for lofty and airy apartments, where the diet is plentiful and costs the consumer nothing. In future structures, reduce the dimensions of your princely barracks to decent and habitable quarters; the men who won Plassey, and fought the numerous

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and bloody battles which added this priceless gem to the Crown of England, lived and flourished in plain and inexpensive buildings, not caring for outward ornamentation and imposing loftiness and breadth of design, so long as they had sufficient air to breathe and a comfortable bed on which to stretch their wearied limbs. Lop off the overgrown excrescences of your Police establishment, often a curse rather than a safeguard to the people, and revert to the former system of guarding your treasuries by detachments of regular and properly trained sepoys. Keep down as much as possible the number of your so-called Staff Corps Officers who draw their pay from the public exchequer and do nothing for it in return: this would be more statesman-like than to abolish the post of an office peon on 7 rupees here, or dock a poor clerk of 10 rupees of his small pay there. Finally, reduce your Public Works agency to a purely professional and scientific body for designing, and estimating for, requisite undertakings, and supervising or executing all the larger and more difficult irrigation works, roads, and bridges; and give back all the minor irrigation and road works of a district to the Revenue officers, who will know how to avail themselves of the *kudimaramut*, or accustomed village labour of the country. Much may be done in this way to keep expenditure within income, with a margin of saving, too, for extraordinary occasions. Many men who thoroughly know the country, especially among our native fellow-citizens, are confident that these measures of reform are perfectly practicable, without in any way jeopardizing the efficiency of the administration. There would then be no excuse for an income-tax, and the tax on justice could easily be reduced to at least reasonable proportions. And while our Government are employed, as they now are, in increasing the resources of the State by revising the assessments of the country, and, in pursuance of their object, will also address themselves to the other reforms that are considered to be still open to them, the impervious administrators of Bengal may be moved by this spirit of earnestness to follow the example of the sister Presidencies, and thereby afford the Imperial Government a full and complete opportunity of adopting a wiser system of Financial Economy than the extremely imperfect one, which accident, the course of events, and obstinacy in certain quarters, have combined to force upon the empire.

THE SEVEN PAGODAS—II.

In our notice, in June last, of Captain Carr's edition of the papers contributed by different writers on the monolithic temples and sculptures known as "The Seven Pagodas," a few miles to the south of Madras, we closed with the learned account contributed by Dr. Babington, Secretary of the Royal Asiatic Society. We now resume our notice of Captain Carr's collection with the next paper in the series, the joint production of the late Lieutenant Braddock, the Rev. W. Taylor, and Sir Walter Elliot, the whole being arranged and communicated to the *Madras Journal of Literature and Science* by the Rev. G. W. Mahon, Garrison Chaplain, Fort St. George. Mr. Mahon introduces this joint contribution with a feeling notice of the sudden death of Lieutenant Braddock, and then proceeds to review the researches of Dr. Babington. The majority of the sculptures were not considered by Mr. Mahon to be of any great antiquity, considering their freshness and that the subjects they represented were principally derived from the Mahabharata. This celebrated poem denotes the prevalence of the Brahminical rather than the Jain religion, while the fact that the inscriptions are

principally in Sanscrit tends to strengthen this opinion. Mr. Mahon, however, referred the remains at Saluvan Kuppam (two miles to the north of the Seven Pagodas), the Rathas, and some of the other sculptures, to a much earlier period than the majority which we have mentioned. The remainder of Mr. Mahon's introductory paper is devoted to an interesting catalogue or notice of similar works of art in other parts of the world, more especially those in Egypt and the western portion of Asia, near Beirout, Sinai, Persia, and Bagistan. The last-mentioned is supposed to have been made by the orders of the great Queen Semiramis, who flourished more than eight hundred years before the Christian era. Lieutenant Braddock's pleasing little paper commences in the usual manner of describing the pagodas, stones, and sculptures. Indeed, on a subject already so threadbare as the general outward appearance of these same sculptures, it is useless to expect much originality; we must confess, therefore, that we were somewhat glad when we were permitted to leave the well-beaten track of description to wander awhile in the more interesting fields of Hindu mythology. Our author gives us various legends connected with Ganesa, the "god of prudence and policy; the reputed eldest son of Siva and Parvati." He is represented with the head of an elephant, as a symbol of his wisdom, and is worshipped by the Hindus at the commencement of any business or undertaking. This is comparatively a tolerably rational account of a heathen deity, but some of the succeeding stories are full of the wildest absurdities. Passing on from the Ganesa temple and its legends, Lieutenant Braddock gives us a story explanatory of the *Vâmana Avatára*, or the fifth incarnation of Vishnu, a pictorial illustration of which is to be found in Plate VI of Dr. Babington's series. A prince named Mahabah, being unduly exalted by prosperity, neglected his religious duties, and Vishnu to punish him appeared in the form of a dwarf, and humbly begged the potentate to give him but so much of his dominions as he could cover *in three steps*. This the prince readily granted, only urging him to ask some gift more worthy of a great monarch. The diminutive brahmin, however, expressed himself well content with what he had already desired. The monarch then taking some water in his hand proceeded to pour it on the head of the dwarf in sign of ratification; great was his amazement to see the insignificant beggar grow to such dimensions that he filled heaven and earth. With two gigantic strides he dispossessed the discomfited monarch of heaven and earth: he was, however, magnanimous, and permited him to retain the dominion of a lower sphere called Patala, said to be inhabited by serpents. Mr. Braddock relates many more interesting legends, and, in fact, tells us more of the mythological bearing of the sculptures than any previous writer; but we should extend our notice of the Seven Pagodas to an abnormal length, did we attempt to linger longer on this part of the subject. A small etching of the Rathas shows that Lieutenant Braddock understood how to use his pen in more ways than one, for, though the touches are few, they are well executed, and convey an idea of freedom and power often wanting in more elaborately finished drawings. To this paper are appended some remarks by the Rev. William Taylor. First, adverting to the name of the spot, Mr. Taylor seems to incline to the opinion that it was *Mamallapuram*, and that it was possibly founded by some junior offshoot of the Malla chieftains of the Telugu country. As to the probable age of the sculptures Mr. Taylor argues that it cannot be so great as some authors imagined. He

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assigns three reasons as the grounds of this belief;—*first*, that the subjects of the sculptures were drawn from the poem called Mahabharata, and the language employed was Sanscrit, both circumstances pointing to a Brahminical origin; *second*, before the time of Kulottunga Chola and his son Adondai, who appears to have lived about the seventh century of our era, the tract of country between the Palar and Pennair, extending to the ghauts, was inhabited by a semi-civilized race of Jains; it was in the times of Adondai that the Brahmins from the north began to colonize this district, and later than this Vellore was founded by a chieftain of the Malla family; from all this Mr. Taylor was led to refer the founding of Mamallapuram to some other chieftain of this family; *third*, the inscriptions, notwithstanding their exposed position, are too fresh and legible to point to a remote origin, none having been found legible in any part of India of a well-ascertained date older than the tenth century. Indeed, Mr. Taylor hesitates to assign to them an age greater than from three to five hundred years. As to the origin of the place and its sculptures, Mr. Taylor appears to think they may be attributed to some conqueror from *Karnataka dèsa* proper; that the place first colonized by an inferior clan was afterwards overwhelmed by the conquerors Krishna-raya and Achyuta-raya of Vijayanagram. Mr. Taylor closes his remarks by some strictures on the results of Dr. Babington's labours. We are not at all prepared to choose between our differing philosophers, but at the same time think that Mr. Taylor might have given us some more lucid explanation of his reasons for dissenting from the opinions of Dr. Babington than he has done.

In his short supplemental paper Sir Walter Elliot speaks of some sculptures and inscriptions at Saluvan Kuppam, and furnishes some copies and also translations of these inscriptions. The fifth paper of the series is also contributed by Sir Walter Elliot, having first appeared in the *Madras Journal of Literature and Science*. Having commented on the historical bearing of the inscriptions, Sir Walter comes to the following conclusions—*first*, that the era of the oldest Tamil inscriptions may be referred to the latter part of the eleventh century, and the inscription on the rock at Saluvan Kuppam to the beginning of the twelfth century; *second*, that, at the time these inscriptions were made, the Saiva creed had given place to the more recent Vaishnava faith; and *third*, that Mamallapuram had another name, *i. e., Jananthapuram*.

The sixth and last paper is one that afforded us most genuine pleasure in its perusal. Its author, C. Gubbins, Esq., B. C. S., seems to have brought to his task a philosophical mind, classical knowledge, and a real interest in his work. This paper is taken from the Journal of the Asiatic Society of Bengal, Vol. XXII, 1853. One of the peculiarities of the locality that seems to have struck Mr. Gubbins was the curious character of the rocks themselves, and the facility with which they split into great blocks with an apparently plane surface. In a very interesting note, the editor here mentions the long celebrated excellence of Indian steel, which he thinks may have even been employed by the ancient Egyptians for their famous architectures. He further states that "Quintus Curtius informs us that Porus presented Alexander with a quantity of steel as one of the most acceptable and valuable gifts India could offer." The editor, too, as well as Mr. Gubbins, remarks on the peculiarity of this same granite, which splits spontaneously in a concentric manner. Thus, says he, was formed the globular mass of rock, popularly supposed to be a ball of butter petrified by Krishna, the god of milkmaids. Thus, too,

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may have been caused the strange fissure in the monolith pagoda described by Mr. Chambers in the first of these papers and referred by him to an earthquake. This same peculiarity of the granite will account for the appearance of ruined domes presented by the rocks and boulders around the Seven Pagodas; the outer surface peeling off in a conchoidal manner under the influence of the weather and sea-air, leaving the remainder rounded and dome-like. Mr. Gubbins, in mentioning the general resemblance borne by the Seven Pagodas to Ellora and Elephanta, points out one singular point of similarity. In both cases the artists have left their work unfinished as though suddenly diverted from it, or as if it had been undertaken mainly to afford them temporary employment, and was then cast aside unfinished when the necessity for it ceased. A fact which greatly supports this general resemblance is the recurrence at Ellora and Mahabalipuram of an emaciated figure apparently beseeching aid from some one in authority. We cannot but think that Mr. Gubbins' explanation of these strange figures is at least reasonable. He supposes that during one of the dreadful famines, which frequently recur in India, some chief wishing to help, without pauperizing, his people, set them to execute these enormous public works to gain a livelihood. This, too, would account for their unfinished condition; for, when the scarcity and famine passed away, the people would naturally revert to their ordinary occupations, and the vast designs commenced would be left unfinished. Another possible explanation suggested by Mr. Gubbins is that a body of artificers, driven from their northern home by the cruelty or caprice of their ruler, sought refuge in this solitary spot, and there worked till recalled by the altered conduct of their natural sovereign. Another explanation of the unfinished state of the sculptures, temples, &c., is the possibly sudden death of the prince who designed the buildings and employed the workmen. Mr. Gubbins proceeds to describe the monoliths, sculptures, &c.; but, as we have gone over that ground before, it is needless to follow him step by step. We must not, however, omit to notice the closing portion of the paper, where the writer expresses his belief in the very great antiquity of the Seven Pagodas. In this, it will be seen that he entirely differs from the Rev. W. Taylor. He thinks it was probably the *entrepôt* of eastern and western commerce in far off classical days; when, he says, on the authority of Gibbon, fleets used to come once a year, borne along by the breezes of the western monsoon from *Myas Hormas*, an Egyptian port on the Red Sea, to some part of Southern India. At that time in the year, the ports of the Western Coast were unsafe, and Ceylon had no towns of any importance or commerce, so Mr. Gubbins suggests that Mahabalipuram may have been the emporium. In support of this theory, he states that a short distance inland he found many ancient foundations, sufficient to prove the place to have been once large and flourishing. Again, he even broaches the idea that the salt marsh at present south of, and behind, the ruins, was formerly a part of the estuary which still exists half way between Sadras and the Seven Pagodas. If we are not mistaken, Mr. Gubbins refers to the estuary or backwater at Covelong. It formed a harbour which, he thinks, might have been deep enough, and safe enough, for the vessels of ancient times; and at that part the coast is not dangerous, the only reef being a small one off Tripalore. From all this, Mr. Gubbins supposes that "Mahabalipuram was a place of considerable commercial resort in olden days, and perhaps was one of the chief ports of Southern India—very probably the *Malearpha* of Ptolemy."

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In the appendix we find the *Sthala purana* or local legend of Mahabalipuram, with its translation. Then follows a description in Telugu by Kavali Lakshmaya, written in 1803, with its translation. This unpretending paper, we quite agree with the editor in thinking, useful and interesting. Kavali Lakshmaya confines himself simply to description, and does not indulge in any theories or explanations. He merely describes the temples, &c., and states what he believes each sculpture to represent. This paper is followed by copies and translations of some of the inscriptions; and the editor ends his labours with an excellent index, by the aid of which all the subjects mentioned in the book may be readily referred to. We cannot refrain, in concluding our notice of the Seven Pagodas, from expressing our regret and disappointment that the editor of this interesting descriptive compilation has not appended some remarks of his own on the papers we have been reading, which, from his careful study of the subject, he must be well able to do. We give him full credit for having rescued these valuable papers from oblivion, and for presenting them to the public in a pleasing and durable form. But we are sure that the value of his pains-taking labours would have been greatly increased, had he not only, to use a legal figure, marshalled his witnesses, but also summed up his evidence to a jury of his readers. He has left the public, as it were, in the position of a jury before whom several witnesses have told their varying tales, and the haranguing counsel has suddenly closed his brief, or the learned Judge has cut short his charge, without pointing out what are the essential and undeniable truths evolved, and what is mere verbiage, fringe, and ornament, that may well be cut away, in order to form an accurate judgment upon the whole of the evidence before them. At the same time we are deeply indebted to Captain Carr for his valuable labours, and we take our leave of the Seven Pagodas with very pleasant recollections of the interest we have felt in following the subject.

HIGH COURT—MADRAS.

INNES AND COLLETT, J. J.

Division of produce—Mirassidars and Poyakarries—Injunction—Evidence—Final hearing.

In a suit by certain Mirassidars to oust their poyakarry tenants on their failure to divide produce, the Civil Judge was of opinion that, as defendants had for more than a year submitted to an order of the Court passed on a prayer to restrain the defendants by an injunction from carrying off the produce, they could not afterwards adduce evidence to gainsay plaintiffs' right to share produce or his title to the lands.

HELD *that, though plaintiffs could rest their case on the evidence recorded by the Court in the proceedings on the first motion for an injunction, the defendants were not precluded from adducing further evidence at the final hearing of the suit. Suit remanded.*

R. As. Nos. 3, 5, *and* 6 *of* 1869.

Ponnappa Naicken and three others *v.* Ekambara Iyer; Mootoo Naik and four others *v.* Tirukkam Iyer; and Veerasawmy Naik and three others *v.* Veerasawmy Iyer.

THREE original suits (Nos. 22, 23, and 24 of 1865) were brought in the Civil Court of Chingleput by Ekambara Iyer, Tirukkam Iyer, and Veerasawmy Iyer, against twenty-eight defendants. The three plaintiffs were the Mirassidars of the village of Navalur, of which they severally held a one-third *pungu* (or share). The defendants were, they alleged, the poyakarries who cultivated the village for them under certain conditions. The plaintiffs sued to recover possession of their mirassi lands, also for the mélvarum, contingent charges, common merah, &c., derived from the produce of the lands, which produce the defendants had improperly and forcibly carried away, without having made a division as they were bound to do by their agreements. Plaintiffs further claimed the mesne profits of the lands from the date of their plaints to the date of the injunction issued by the Civil Court in October 1867 regarding these lands. The defendants in their reply admitted that plain-

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tiffs were the Mirassidars, and that they (defendants) and their ancestors had held the lands under them as poyakarries. Defendants did not deny having carried off the harvest as alleged by plaintiffs; but they did deny having made any agreement to cultivate the mirassi lands of the plaintiffs, and to divide their profits with them. They denied plaintiffs' right to oust them from possession of the lands; they asserted that the right of occupancy belonged exclusively to them, and added that plaintiffs' valuation of the crops they had carried off was excessive. The plaintiffs pleaded that it was not necessary for them to adduce any fresh evidence as to the agreement on the defendants' part to cultivate the lands. In the order of the Civil Court of Chingleputin January 1867 (upon Miscellaneous Petitions 533, 534, and 535 of 1866, and in Original Suits 22, 23, and 24 of 1865) it was distinctly recorded that the agreement to pay mêlvarum on plaintiffs' land had been proved, and the breach of that contract by the defendants had been admitted. The Court then (January 1867) granted an injunction restraining the defendants from touching the crop at that time on the land until they had furnished Rupees 1,000 as security for the produce. This order was complied with, and the injunction removed. On the 23rd September in the same year the same three plaintiffs presented Miscellaneous Petitions 602, 603, and 604 of 1867, applying for fresh security for the coming year, or for a renewed injunction to restrain defendants. The facts of the case were again gone into. The defendants did not impugn the accuracy of the Court's former orders; but they simply declined to furnish any security, whereupon the injunction prayed for by plaintiffs was granted on the 16th October 1867. Mr. Whiteside, the Civil Judge, was of opinion that, as the defendants had so long submitted to these orders of the Court without any objection or appeal whatsoever, it was now too late for them to retract their admissions, placed on the record more than a year before, or to deny their agreement and the breach of it. They could not after so long a time propose to cite oral evidence to rebut the allegations contained in the plaint, the truth of which they had once, through their vakeels, deliberately admitted. As to the right of plaintiffs to oust defendants, the Judge held that it was a point of law not requiring proof by witnesses. He found that defendants had agreed to cultivate plaintiffs' lands on certain terms for Fusly 1274. This contract was, in fact, a lease of the lands to defendants of a temporary character. As no time was specified, it must be regarded as a lease for one year only, and the plaintiffs had the right to resume the lands and eject the defendants. Mr. Whiteside, therefore, declared the injunction of the Court, dated 16th October 1867, to be permanent, and prohibited defendants from interfering with the lands in question. Defendants were also to pay to the plaintiffs two-thirds of the sum claimed as the value of the crops carried off with proportionate costs. The Court further awarded to plaintiffs the mesne profits, valued at the rate above specified, from the date of the plaints to the date of the delivery of the lands to plaintiffs under the renewed injunction of the Court. From this decision the defendants appealed to the High Court, *inter alia*, that the statement made in the judgment about the alleged admission by the defendants' vakeels of the first and second points was not based upon any written document; that the decision passed on a summary proceeding in regard to security for the mesne profits in a suit before disposed of could not be one determining the proprietary right between the parties, and the failure to appeal from such decision could not affect the cause of the defendants; that it was admitted by the plaintiffs that these defendants had long enjoyed the litigated land from a time anterior to Fusly 1274; and that the village under litigation was enjoyed *pasungur* (jointly) and not *pungus* (shares). Mayne for appellants, Sloan for respondents.

The High Court delivered the following

Judgment:—1st November 1869.

We think that these cases have not been satisfactorily disposed of by the Civil Court. The plaintiff in each case was, of course, at liberty to rest his case on the evidence already recorded in the proceedings held by the Court on the first motion for an injunction, but the defendants should not have been precluded from adducing at the final hearing any further evidence if so advised. On this ground we must reverse the decrees of the Civil Court, and remand the suits for investigation upon the merits. Each party will be at liberty to produce further evidence on all recorded issues. The costs hitherto incurred in this and the lower Court will be costs in the suits.

SCOTLAND, C. J., AND COLLETT, J.

Suit for enforcing puttahs—Possession—Powers of Collector under Regulation VII of 1828—*Act VIII of* 1865.

In a suit for enforcing acceptance of puttahs, defendants set up title in a third party. The Head Assistant Collector dismissed the suit at first; but, upon the order of the Collector, he revised his judgment; and, considering the plaintiffs to be in legal possession, he decreed as sued for. The Civil Judge reversed this judg-

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ment on the ground that the plaintiffs were not in legal possession, and that the Head Assistant had no power to revise his judgment in the manner he did.

HELD *that, as the plaintiffs were in possession under processes of the ordinary Civil Courts, they had a* locus standi *for suing to enforce acceptance of puttahs; that, as Section* 76 *of Act VIII of* 1865 *enacts that no judgment of a Collector shall be open to revision except by appeal to the Zillah Court, and that a Head Assistant or Subordinate Collector comes within the definition of* "Collector," *the judgment of a Head Assistant cannot be revised except by appeal to the Zillah Judge; and that the second judgment of the Head Assistant cannot be viewed as a review of his former judgment, because the power of review under Section* 58 *applies only to* ex parte *decrees.*

S. As. 207 *and* 209 *of* 1869.

Rajaram Lala *v.* C. Velakakca; and Rajaram Lala *v.* Kalyappan.

THE latter of these two cases (upon which the former one depended) was first heard by the Acting Head Assistant Collector of Salem, Mr. Woodroffe, in July 1867. The plaintiffs, as holders of the Valyambat Jaghire, sued to force the defendant to accept from them a puttah for certain land situated in the village of Valyambat, and at that time in his possession. The defendant pleaded that plaintiffs were not competent to give him a puttah; that he already held one from Sitarama Lala; and that he had paid rent to Sitarama Lala since Fusly 1271. It appeared that this Sitarama Lala was the registered holder of the jaghire, and that the present plaintiffs had obtained possession of it for a term of years by a razinamah, and a precept based on it emanating from the Court of the Principal Sudr Ameen, hence the defendant's contention that plaintiffs were incompetent to grant him a puttah. Mr. Woodroffe passed an order which was, however, annulled by the Collector, who directed him to re-investigate the case and revise his decision. In September 1868 the Head Assistant passed his revised order, in which he directed the defendant to accept the puttah from, and to exchange a muchilka with, the plaintiffs. From this order the defendant appealed to the Civil Court of Salem. Mr. Chamier, the then Civil Judge, was of opinion that the first question was whether the Head Assistant had any power to revise his judgment. The Collector's order was based on Clause 3, Section 3, Regulation VII of 1828, under which Collectors had power to control the proceedings of Subordinate and Assistant Collectors, but it was to be considered whether that power was continued to them under Madras Act VIII of 1865. It was evidently the intention of the legislature to establish a class of Courts possessing independent jurisdiction invested with summary powers of procedure and able to afford immediate relief in all disputes between landlords and tenants. It seemed to Mr. Chamier that under Section 1 of the Act every officer who, for the time being, was authorized to exercise the powers of a Collector, had jurisdiction and could give effect to its provisions, and that Section 76 provided that "in proceedings under this Act no judgment of a Collector and no order passed by him after decree and relating to execution thereof should be open to revision otherwise than by appeal to the Zillah Court, except as allowed in Section 58." Mr. Chamier thought that this applied to the present case, and that the decision of the Head Assistant should not have been revised by order of the Collector. In consequence great delay had taken place in the disposal of this suit and of others dependent on it; had the appeal been direct to the Zillah Court, the case would have been disposed of before the end of 1867. The next question was whether the plaintiffs were in a position to force defendant to accept the puttah. Mr. Chamier was of opinion that plaintiffs were not in legal possession: to the institution of the suit in the Court of the Principal Sudr Ameen there was no objection, as it was an ordinary action for debt, and there was no objection to the parties compromising the suit in any manner they pleased; but, when the plaintiffs moved the Court to enforce the terms of the razinamah and give them possession of the whole jaghire, the provisions of Section 3, Regulation IV of 1831, and Regulation XXIII of 1838, deprived the Court of jurisdiction in the matter. Had Sitarama Lala, the defendant in that suit, voluntarily admitted the plaintiffs into possession in pursuance of the razinamah, the case would be different. As it was, Mr. Chamier did not think they had obtained possession by legal means, and, therefore, they could not compel defendant to accept the puttah. The Civil Judge, therefore, reversed the decision of the Revenue Court, and dismissed the plaintiffs' suit. From this decision the defendant appealed to the High Court. Srinavassa Charry for appellant; Rama Row for respondent.

The High Court delivered the following

Judgment:—15th December 1869.

In this case the plaintiffs are the actual possessors of the Valyambat Jaghire, and, as such, brought a suit before the Head Assistant Collector, under the Madras Rent Act VIII of 1865, to compel the defendant to accept a

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puttah and to execute a muchilka for the land occupied by him, being part of the plaintiffs' jaghire. The Head Assistant Collector on 2nd July 1867 dismissed the suit; but the Collector, exercising his general powers of revision under Section 3, Regulation VII of 1828, on the 31st August 1868, by a letter, set aside the Head Assistant Collector's decision, and directed him to re-investigate the case upon the merits. The Head Assistant Collector accordingly re-heard the case, and, finding that the puttah tendered was a proper one, decreed that the defendant should accept the same and execute a muchilka in exchange. The defendant then appealed to the Civil Court; and the late Civil Judge reversed the decision of the Head Assistant Collector, and dismissed the suit on the ground (first) that the Collector had no power to interfere with the Head Assistant Collector's decision, and the latter no power to review his former decision, and (secondly) that the plaintiffs were not in legal possession of the jaghire. As to the second ground of objection, we are of opinion that the view of the late Civil Judge was erroneous. The plaintiffs were in actual possession of the jaghire, and obtained such possession under the process of the ordinary Civil Courts, which is still in force; and we are clearly of opinion that a rightful possession of this nature would give a good *locus standi* in the Revenue Court, such as to justify and require the Collector to proceed to compel the tenants occupying lands to accept proper puttahs for the same. It is sufficient to found the jurisdiction of the Collector that the plaintiff is the landlord in peaceable possession, and proved *primâ facie* to be clothed with the legal right to the rents of the estate; and we see no ground for supposing that the legislature intended that it should be open to the tenant to set up against such a plaintiff the title of a third party out of possession, a course which is not reasonably required for the protection of the tenant's interests, and would be likely to result in much fraud.

The other ground of objection taken by the Civil Court is, we think, well founded. Section 3 of Regulation VII of 1828 is left unrepealed by Madras Act VIII of 1865, and Clause 3 of the section gives to the Collector the fullest powers of control and revision over the proceedings of his subordinates. But Section 76 of Madras Act VIII of 1865 enacts that, in proceedings under the Act, no judgment of a Collector shall be open to revision otherwise than by appeal to the Zillah Court; and, applying to the term "Collector" the definition of it given in Section 1 of the Act, thus includes the judgment of a Head Assistant or other subordinate Collector. It prohibits, therefore, the judgment of a Head Assistant Collector being revised otherwise than by an appeal to the Civil Court. To this extent the powers given by the Regulation appear to be restricted by the words of Section 76 of the Act; and, as we must suppose that the provisions of the Regulation were present to the mind of the legislature when framing the Act, the term "revision" seems to have been purposely used with reference to the general powers of control and revision given by the Regulation; for we need scarcely add that those general powers, save as thus expressly restricted, still remain in full force, and it would not be difficult to suggest how they might be applied in a variety of ways to the proceedings of subordinate Collectors under this very Act.

The question remains whether, though the Collector had no power to revise and set aside the judgment of the Head Assistant Collector, the subsequent judgment of the Head Assistant may not be regarded as a review of his former judgment. Section 76 contains an exception as to the revision of a judgment in favour of cases within Section 58 of the Act; but that section is limited to judgments in default or *ex parte*, and would, therefore, not include the present case. Ordinarily, where a Court has passed judgment in a suit, it has not the power to review and alter its first judgment upon the merits, unless such power has been expressly conferred upon the Court. As observed in the judgment reported in IV. Madras High Court Reports, 253, Madras Act VIII of 1865 lays down all the procedure to be observed in a suit before a Collector; and, with the exception of Section 58, there is no provision enabling a Collector to review his judgment, and the restrictive words of Section 76 itself are wide enough to include a prohibition of a review of judgment otherwise than under Section 58.

For these reasons we confirm the decree of the lower Appellate Court and dismiss this special appeal with costs.

Special Appeal No. 207 *of* 1869.

This case is precisely similar to Special Appeal No. 209 of 1869, and, for the reasons given in our judgment in that case, this special appeal will be dismissed with costs.

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HIGH COURT—CALCUTTA.

GLOVER, J., AND HOBHOUSE, SIR C. P., *Bart.*, J.

The Collector of Bogra (defendant) *v.* Dwarkanath Biswas and another (plaintiffs).*

Regulation V of 1799, *Section* 5—*Regulation V of* 1827, *Section* 3 — *Collector* — *Administrator* — *Tenant*—*Act X of* 1859.

Under the provisions of Regulation V of 1799, *Section* 5, *and Regulation V of* 1827, *Section* 3, *the Collector took charge of a sub-tenure as administrator of a deceased person to whom the sub-tenure belonged.*

HELD, *the Collector was in no sense the tenant of the superior landlord, and consequently no suit would lie against him under Act X of* 1859 *for rent alleged to be due in respect of the sub-tenure.*

Baboo *Anukul Chandra Mookerjee* for appellant.

Baboos *Bhairab Chandra Banerjee* and *Nalit Chandra Sein* for respondents.

The judgment of the Court was delivered by

HOBHOUSE, J.—The facts of this case are very simple. One Peari Mohan, the proprietor of a certain tenure, died intestate. His property came under the jurisdiction of the Civil Court under the provisions of Regulation V of 1799 and Regulation V of 1827. Under the provisions of Section 5, Regulation V of 1799, and Section 3 of Regulation V of 1827, the Collector of the district was appointed to take charge of the estate. It became then the Collector's duty to take the management of it as directed in the Regulations quoted. He did take and hold that management from August 1864 (Bhadra 1271) up to May 1868 (Jaishta 1275). During that period he collected the assets of the estate, and held them in his possession. 45 rupees of those assets, it is found by the Court below, he appropriated to the payment of Government revenue due from the estate, and the balance of the assets he paid into Court under the following circumstances.

A certain person got a decree against the estate of Peari Mohan. In execution of that decree the decree-holder attached the assets of the estate in the hands of the Collector under orders of the Court having jurisdiction to execute the decree. The Collector paid over the assets into Court in satisfaction of the decree, less the sum of 45 rupees which I have mentioned above.

Under these circumstances the plaintiff now comes into Court and avers that he is the superior landlord of the tenure which belonged to Peari Mohan, and that certain rents are due to him for that tenure from the years 1268 to 1273, (1861 to 1866,) and he claims to recover those rents from the Collector on the averment that the Collector, standing in the place of Peari Mohan, is his tenant and is liable for the said arrears.

The suit is instituted under the provisions of Act X of 1859. It is quite clear that, if any such suit could lie under the provisions of the said Act, it would, as it is admitted by the pleader for the respondent, lie only for the rents due from and after the year 1271 (1864). But further, it seems to us that the Collector in this instance cannot, in any sense, be said to have been the tenant of the plaintiff; and that as there was no jurisdiction in the Revenue Courts, nor consequently in the lower Appellate Court, to entertain this suit at all. By the provisions of Section 5, Regulation V of 1799, the Court, in the case of a person dying intestate, is authorized to appoint an administrator for the due care and management of such estate, and such administrator is to give a full and just account of all receipts and disbursements during the period of administration. By the provisions of this section the Courts were formerly entitled to appoint any person to be the administrator in question; but by Section 3, Regulation V of 1827, the power given to the Courts by the previous Regulation was so far modified, that it was declared that the Collector of land revenue should be the person to be appointed the administrator in question. When, therefore, in this instance the Collector of land revenue was appointed to be the administrator to the estate of Peari Mohan, it is obvious that he was simply an administrator responsible as such to give an account of his receipts and disbursements, and nothing more. The words of the Act imply exactly this and no more, and it would be manifestly and obviously unjust to expect anything more.

The Judge below considers that the Collector is in part liable, because, as he puts it, "having knowledge at the time that the Zemindar's rent was due," (he should perhaps on the evidence rather have said "claimed,") "the Collector ought "not, in his opinion, to have remitted all the "moneys belonging to the estate to the Civil "Court, but should have reserved enough to meet "the Zemindar's claim for rent." The Judge remarks that the fact of the Collector's reply to the Principal Sudr Ameen shows that he did keep back a sum of 45 rupees for Government revenue, and the Judge thinks that it was equally his duty to have kept back a certain other amount to meet the Zemindar's claim for rent. The answer to this seems to be that when the Collector, who after all was nothing more than the administrator, was directed by the Civil Court to pay in the moneys he had collected on account of that estate, his duty would rather seem to have been to pay in the whole he had collected and to have reserved nothing. No inference, therefore, we think can be drawn from the fact that the Collector kept back a certain sum of money, which perhaps in duty and strictness he ought not to have kept back at all. But, whether that is so or not, the fact remains that the Collector could not, in our opinion in this instance, be said to be in any sense the tenant of the plaintiff, the Zemindar; and, this being so, whether or not that Zemindar has any other remedy against the Collector, it remains at least that he has not the remedy which he has endeavoured in this suit to follow out.

We reverse the judgment of the lower Appellate Court and affirm the judgment of the first Court, dismissing the plaintiff's suit.

* Special Appeals, Nos. 555 and 775, of 1869, from the decrees of the Judge of Rajshahye, dated the 29th December 1868, reversing and modifying the decrees of the Deputy Collector of that district, dated the 30th June 1868.

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It is admitted by the pleaders in Special Appeal No. 775 of 1869 that this case must follow the decision given in Special Appeal No. 555 of 1869. This appeal No. 775 must be dismissed, and with costs; but, as the objection now taken before us in Special Appeal No. 555 was not taken before, we think that in this last-named special appeal each party must bear his own costs in all the Courts.—*18th February* 1870.—*Bengal Law Reports, Vol. IV, Part XXIII.*

NORMAN, J., OFFICIATING CHIEF JUSTICE, AND LOCH, J.

Bunwari Lal Roy (plaintiff) *v.* Mahima Chandra Knuall and others (defendants).*

Limitation—Landlord and tenant—Patni lease—Receipt of rent—Notice.

A, a Hindu, died leaving his widow, B, and his mother, C. B adopted D. C granted a patni puttah to E of certain property belonging to the estate of A. During the minority of D, B received the rent from E; and afterwards D, on attaining majority, realized rent from E by suits under Act X of 1859. *Twelve years after attaining majority D sued for cancellation of the patni lease and for obtaining khas possession of the property.* HELD *that the suit was not barred; the receipt of rent was no confirmation of the patni lease, it only created the relation of landlord and tenant.* HELD *also that the plaintiff was not entitled to khas possession before the relationship of landlord and tenant was legally determined by a reasonable notice.*

SEMBLE—*Such notice should expire at the end of the year.*

Baboos *Srinath Das* and *Bhagabutti Charan Ghose* for appellant.

Baboos *Dabendra Narayan Bose* and *Mahini Mohan Roy* for respondents.

The judgment of the Court was delivered by

NORMAN, J.—This is a suit for certain property to which the plaintiff alleges he is entitled as having descended to him from Gaur Sundar, by whose widow he was adopted. The plaintiff alleges that the property remained in the possession of his adoptive mother, Brajeswari, till the year 1273 (1866) with his permission, and that at the end of 1273 (1866) he went to take possession, but the defendant would not allow him to do so. He, therefore, sues, praying that khas possession may be given to him, and that an alleged patni puttah may be declared to be invalid. He also asks for wasilat.

The facts of the case are shortly these. Gaur Sundar died in 1240 (1833) leaving a widow, Brajeswari, and his mother, Hemlatta Chowdhrain. Brajeswari in 1252 (1845) adopted the plaintiff, who obtained his majority in 1262; or, in other words, in 1855. The present suit was brought in 1867, twelve years, or nearly twelve years, after plaintiff obtained his majority. The first point made in favour of the defendant is that the suit is barred by limitation.

Now, though the patni puttah purports to have been granted by Hemlatta Chowdhrain, the mother of Gaur Sundar, who, from the findings of the lower Courts, seems to have had no interest in the property, the rent was for many years paid by the defendant to Brajeswari, and in the years 1257, 1258, 1259, and 1260 (1850, 1851, 1852, and 1853) Brajeswari appears to have realized the rent from the defendant after the institution of proceedings under Regulation VIII of 1819. From the year 1262, (1855,) when the plaintiff obtained his majority, to the present time, the rent has been realized by proceedings under Act X of 1859; and the substantial question before us has been whether, under those circumstances, we can infer that Brajeswari, or the plaintiff, Bunwari Lal Roy, confirmed the patni puttah granted by Hemlatta Chowdhrain, or whether the right of the plaintiff to sue to declare the patni invalid is now barred by limitation.

After much consideration of the subject we have come to the conclusion that the suit to declare the patni puttah invalid is not barred.

The patni puttah, or supposed patni puttah, (for I may observe that no evidence has been given by the defendant as to its having been really executed by Hemlatta Chowdhrain,) is one granted by a person who had no title to the estate, and under whom the plaintiff does not in any way claim. The defendant has a lease by a person, not only who had no right to grant it, but who had no interest in the property, and was a stranger to it. Brajeswari, the person to whom the land belonged, received the rents year by year. It is true that, particularly after the adoption of the son, she gave receipts which treat the rent as the rent of property held in patni, and that she took proceedings as if there was a valid and subsisting patni under which she was entitled to receive the rent. It appears to us, however, that these receipts and these proceedings are merely evidence of the existence of a patni; but, when the facts are examined and it turns out that there is no patni at all, that, in fact, the relation of Zemindar and Patnidar does not exist, it comes to no more than this, that there is evidence which, if uncontradicted, might have led to the inference that the relation of Zemindar and Patnidar existed between the parties, but when the facts are ascertained we find that such is not the case. There is nothing to show that the defendant was induced in any way to alter his position or in any way prejudiced by acting upon any belief founded on the incorrect statements of Brajeswari, as expressed in some of the receipts for rent. There is no reason, therefore, why as against Brajeswari or the now plaintiff we should presume the existence of that which had no existence, namely, a valid patni lease. What, then, was the position of the defendant and Banwari Lal Roy, when represented by Brajeswari during his minority? It was simply this. The defendant was a person paying rent to Brajeswari,

* Special Appeal, No. 1,527, of 1869, from a decree of the Subordinate Judge of Rajshahye, dated the 12th April 1869, reversing a decree of the Officiating Sudr Ameen of Pubna, dated the 31st August 1867.

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the relation of landlord and tenant existed between them, and none other. On Bunwari Lal Roy coming of age he had a right to sue and became of capacity to sue to obtain a declaration that the patni puttah was invalid, but the patni puttah acquired no validity because he did not sue to set it aside. The relation of the parties continued exactly the same as it was during the plaintiff's minority. The defendant was a person paying rent, and Bunwari Lal Roy was a person receiving it. There was nothing which could be, or was, confirmed by any act or commission of Bunwari. The patni puttah which was invalid at the beginning remained invalid down to the commencement of the suit, and it appears to us that, in respect of so much of the prayer of the plaint as prays that the patni puttah may be declared to be invalid, we may make a declaration that the patni having been granted by a person who had no interest in the estate is invalid and in no way binding upon the plaintiff, Bunwari Lal Roy.

The next question is whether the plaintiff is entitled to obtain a decree for the actual possession of the property and mesne profits. As I have said, the legal relation of the parties was that of landlord and tenant; and, if a tenant is legally in possession paying rent, whether he is in possession as a ryot or as the holder of an intermediate tenure, we think that that right of possession, which exists as long as the relationship of landlord and tenant continues, must be legally determined before it is competent to the landlord to bring a suit for possession. If a landlord sues for possession, he is bound to prove that he was entitled to actual possession before the time of the institution of the suit.

Baboo Srinath Das admits that there are many decisions in which a rule of this kind has been laid down as regards ryots. It is easy to show that that principle applies also to the cases of intermediate tenures. In the case of a ryot, if the landlord could maintain a suit for possession in the middle of a year and suddenly determine a tenancy without notice, he might sweep off the fruits of the ryot's labour and expenses for the whole year. So again, in the case of an intermediate tenure, if the landlord could come upon the land or suddenly turn out the tenant, he might do so immediately before the period for collecting the kists of rent which such tenant was collecting from his ryots, and thus deprive the tenant of the profits to which he was looking to reimburse himself for the expenses to which he had been put in paying his own rent, kist by kist, throughout the year. He could turn out his servants without notice and remove his books out of his cutcherry without giving him time to deposit them in a place of proper custody, and so cause him the greatest inconvenience. The tenant might have made advances for the improvement of the estate; by determining his tenancy without notice the landlord might deprive him of the power to recoup himself for such advances. We think that the principle which applies to the case of ryots applies also to the case of middlemen, and that the latter cannot be turned out by the Zemindar without a reasonable notice, notice which we are disposed to think should expire at the end of the year. This suit was brought without notice, and, therefore, the plaintiff, in so far as he asks for possession and wasilat, is not entitled to a decree.

As the plaintiff does not succeed upon this point, which is an essential part of this case, and as, from the peculiar character of the dealings between himself and his mother, ryots who had held under what they may have supposed to be valid leases must have been put to considerable difficulties in knowing what their rights were, we think that the plaintiff should not get his costs of this suit. Each party will bear his own costs in all the Courts. —*8th March* 1870.—*Idem.*

HIGH COURT—N. W. PROVINCES.

(*Appellate Side.*)

MORGAN, C. J., AND ROSS, J.

Lease from occupying ryot—Right of Zemindar—

The fact that a person holds under an unexpired lease granted by a mere occupancy ryot, against whom a decree of ejectment has been obtained, is of no avail to enable such person to support his possession as against the Zemindar.

Such a lease could confer no rights on the lessee which would avail against the lessor's Zemindar.

S. A. No. 834 *of* 1869.

Jafree Begum, (appellant,) *v.* Hossein Zaman Khan, (respondent).

THIS was a special appeal from the decree of Mr. J. A. Prinsep, Officiating Judge of Furruckabad, in Appeal Suit No. 147 of 1869.

Bishumber Nath, *Furreed-ood-Deen*, and *Sumeeoollah* for the appellant, the defendant.

Pearey Mohun and *Abinash Chunder* for the respondent, the plaintiff.

This was a suit for the possession of land, the Court of first instance decreeing the claim, and the lower Appellate Court confirming the decree, the question at issue being whether the Zemindar has the right to dispossess a tenant, who has obtained a lease of his land for a term from a ryot with the right of occupancy, after the right-of-occupancy ryot has himself lost his holding on failure to pay his rent.

The Court delivered the following judgment:—

The lease from Kishna, who was merely a ryot having a right of occupancy, could confer no rights on the plaintiff which would avail against Kishna's Zemindar, Nawab Jafree Begum. If the latter had recognized the lease by receiving rent from the plaintiff or by other recognition, the case might have been otherwise, but nothing of this sort has been shown. A decree of ejectment has been obtained against Kishna by his Zemindar, and has been executed, and thereby the right of occupancy has been des-

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troyed. The lessee can stand in no higher position than his lessor, and the latter could give to his lessee no right which could prejudice the Zemindar. The judgments of both Courts regard the defendant as bound by the lease; but this view cannot be supported: we must reverse the judgments. The case will be remanded to the lower Appellate Court for trial. If from any other circumstances the plaintiff's ejectment is shown to be illegal, due weight may be given to such circumstances. But we are of opinion that the fact that he held under an unexpired lease, this lease having been granted by a mere occupancy ryot against whom a decree for ejectment had been obtained, is of no avail to enable him to support his possession.

The costs of this appeal will be costs in the cause, and will be disposed of by the lower Appellate Court.—10*th January* 1870.—*N. W. Provinces High Court Reports, Vol. II, Part I.*

SELECT JUDGMENTS OF THE MADRAS SUDR UDALUT.

SCOTT AND GREENWAY, J. J.

Suit for land held under deed of gift—Title-deed —Non-production—

Where A and B sued to recover certain malguzari lands which they alleged they had held under the Carnatic Government on a deed of gift, and that C and D had dispossessed them of these lands—

HELD *that A and B's parol evidence was insufficient and unsatisfactory; that they professed to have lost their title-deed, and then wished to produce it when the case was nearly done; but that its production at that stage of the proceedings could not be allowed.*

No. 9 *of* 1811.

THIS suit was instituted in the Zillah Court of Trichinopoly for the recovery of malguzari land, in the village of Mooloogoody, alleged to be unjustly withheld, and the amount-value of the annual produce of the land was claimed as damages.

The Zillah Court gave judgment in favour of the plaintiffs. The defendants appealed therefrom to the Provincial Court for the Southern Division, and that Court reversed the decision of the Zillah Court, adjudging the plaintiffs in the Zillah Court to pay all costs of suit.

On appeal to the Sudr Court they observed that the decree of the Zillah Court was grounded on an admission made in the pleadings on the part of the defendants, that the plaintiffs, in the time of the Carnatic Government, had included the village of Mooloogoody in their *Danum*, and it was thence inferred that the defendants had from that period cultivated the lands under the titles of *Swami Bhogum*, *Wathovoolawady*, and *Yearoovooravalavady*, and not under any other authority. The defendants, therefore, having dispossessed the plaintiffs of the land in question, and, in contravention of Regulations XXX and XXXII of 1802, having cultivated it without exchanging either puttah or muchilkas, were declared to be responsible for the restitution of the land and the amount of damages claimed.

The Provincial Court, on the other hand, were of opinion that, as the original defendants were in actual possession of the land at the time when the suit was instituted in the Zillah Court, they ought not to have been ousted unless the other party had produced the document, usually deemed requisite to establish a right of possession, and had also satisfactorily proved the act of usurpation by the original defendants. They were of opinion that the original plaintiffs had failed in both these points, and that, therefore, they could not be considered entitled to be put in possession of lands to which they could not legally prove their claim.

That the defendants were in actual possession of the lands in dispute at the time when the cause of action arose was, the Sudr Court thought, evident from the admission made by the plaintiffs in their petition to the Zillah Court, as well as in other parts of the pleadings filed on their behalf. It appeared clearly that the cause of action arose in the attempt of the plaintiffs to plough lands, of which the defendants claimed the proprietary right, and had actually enjoyed for some time at least the right of cultivation. The statement of the case made by the plaintiffs showed that it was not usual for them to plough the lands in dispute, and their attempt to dispossess the defendants could be legally justified only by establishing a superior title.

The question for consideration, therefore, was whether the plaintiffs had established a superior title to the lands in dispute. The parol evidence which they adduced was altogether unsatisfactory, and the documents which they filed, namely, a puttah granted by the Collector a few months only before the cause of action arose and a cadjan purporting to be a swami bhogum chit executed by one of the defendants to one of the plaintiffs and another person, were, in the opinion of the Court, quite insufficient to establish the claim which the plaintiffs advanced.

In the Zillah Court the plaintiffs stated that

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they had lost the Dannaputtrum, or deed of gift, on which they grounded their claim to the village of Mooloogoody; but, in their reply filed in this Court, they mentioned the recovery of this instrument, and they prayed the Court to receive it with other documents. Under any circumstances, the production of documents at a time when the proceedings were nearly brought to a conclusion, and the weak parts of the case had been fully disclosed, must be looked upon with suspicion; but in this case, wherein the appellant so completely failed to show any title to the lands in dispute or to establish any circumstance from which such title might be inferred, the Court were of opinion that the admission of the documents in question at this stage of the proceedings would be unjustifiable. If the plaintiffs had ever held a Dannaputtrum for the lands, or if they had ever enjoyed the proprietary right of those lands, the absence of all collateral proof to those points was scarcely to be conceived. It was proper to remark that no explanation was afforded of the time when, the place where, or the manner in which, the Dannaputtrum was recovered, and no satisfactory reason was assigned for not filing the other documents in the Zillah Court.

The Court, therefore, confirmed the decree of the Provincial Court, and dismissed the appeal, the appellants paying all costs.—*Vol. I., p.* 43.

SCOTT, GREENWAY, AND STRATTON, J. J.

Pagoda—Swami bhogum—Grant of relief not sought—De novo *suit*—

Plaintiffs sued to recover balance of Swami bhogum due to a pagoda. Defendants pleaded that the mirass of the lands did not vest in pagoda, but in themselves; that they and Government jointly made an allowance to the pagoda, but that Government subsequently withdrew its share. Zillah Court dismissed suit on failure of proof; Provincial Court adjudged the mirass to vest in pagoda, and ordered the lands to be restored.

HELD *that Provincial Court had misunderstood object of suit, and had granted a relief not sought; that the suit must, therefore, be dismissed, but plaintiffs could commence a suit* de novo.

No. 11 *of* 1812.

THIS suit was instituted in the Zillah Court of Trichinopoly for the recovery of certain paddy-grain claimed as balance due on account of *swami bhogum*, for nunja mirassi lands belonging to a pagoda.

On the part of the plaintiffs it was alleged that the ancestors of the defendants held the cultivation of the lands in question, on condition of paying *swami bhogum* at the rate of 3 cullums and 7 marcals of paddy per *purray chay;* that the *swami bhogum* was fully and regularly delivered for fifty-three years, up to the year 1796 inclusive; but that from that year the defendants had delivered only 2 cullums and 2 marcals per *chay* of the stipulated *swami bhogum.* The object of the suit, therefore, was to recover the balance accruing from this short delivery for ten years, from 1797 to 1806.

On the part of five of the defendants it was alleged that the mirassi right to the lands in question was not vested in the pagoda; that they had never delivered paddy for the use of the pagoda at the rate of 3 cullums and 7 marcals per chay, but that an allowance to that extent was made for its maintenance by the Government and the inhabitants conjointly; that in the year 1796 the Government discontinued its share of the allowance in question, but as the pagoda belonged to the village, the defendants agreed to allot for its support a quantity of paddy, at the rate of 2 cullums and 2 marcals per chay, from the cultivator's share of the produce. The remaining two defendants denied that the mirassi right of the lands was vested in the pagoda, but they acknowledged that they had agreed to deliver paddy for the use of the pagoda, at the rate of 3 cullums and 7 marcals per *purray chay;* and that this allowance was continued to the year 1796, when it was reduced in consequence of a dispute in the village.

The Zillah Court dismissed the suit with costs, on the ground that the plaintiffs had failed to prove that the defendants held the lands under an agreement to pay *swami bhogum;* that the village belonged to the pagoda, or that a *swami bhogum* was payable from the lands at the rate of 3 cullums and 7 marcals per *chay.*

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One of the plaintiffs died while the suit was pending in the Zillah Court. The other plaintiffs, dissatisfied with the decision of the Zillah Judge, appealed therefrom to the Provincial Court for the Southern Division, who reversed the decision of the Zillah Court, and, adjudging the village to be a mirassi belonging to the pagoda, they ordered the restoration to the said church of the nunja lands appertaining thereto, being 96 chays, and the payment of the balance of paddy claimed by the original plaintiffs.

From this decision the respondents in the Provincial Court, with the exception of two, appealed to the Court of Sudr Udalut, who considered the Provincial Court to have misunderstood the object for which the suit was instituted. The plaintiff did not claim to be put in possession of the lands; their claim was limited to the recovery of a balance stated to be due, on an alleged *swami bhogum* agreement, under which possession of the lands was held by the defendants. Their object was to enforce the full performance of this agreement. The Provincial Court, therefore, were clearly not warranted in awarding to the appellants in that Court *possession* of the lands, inasmuch as possession was not claimed by them. The question at issue before the Provincial Court, as it had been before the Zillah Court, was simply whether the appellants were entitled to a *swami bhogum* from the land at the rate of 3 cullums and 7 marcals of paddy per *purray chay.*

Considering, as it was presumed the Provincial Court did consider, that the appellants claimed to be put in possession of the lands, they should have rejected the claim on the ground that the amount of the annual produce was not specified as prescribed by Section 3, Regulation III of 1802. If they had pursued this course they would have avoided the irregularity of decreeing away property, the value of which was not in proof before them; and, after they had ordered the execution of their decree, they would not have had to institute an inquiry, for the purpose of ascertaining whether or not an appeal from it could lie to the Court of Sudr Udalut. It was scarcely necessary to add that, as the amount of the annual produce of the land was not specified, the institution fee prescribed by Regulation V of 1808 could not have been paid; and that, as the vakeels' fees were calculated only on the value of the paddy claimed by the original plaintiffs with the amount of damages for one year, the pleaders employed in this cause did not receive the prescribed fees on the value adjudged by the decree.

But the decree, inasmuch as it regarded the fees of the pleaders, was erroneous in another respect. The paddy claimed was valued by the appellants at Rupees 1,813 and Cash 75; and the amount adjudged on the value by the decree was Rupees 1,722, Fanams 5, and Cash 30. On the amount thus disallowed the fees of the pleaders should have been paid by the appellants.

While, on the one hand, the original plaintiffs had failed to establish clearly their right to a *swami bhogum*, at the rate of 3 cullums and 7 marcals of paddy per *chay*, the evidence for the defendants, on the other hand, was not altogether consistent with the plea upon which the claim of the plaintiffs was resisted, namely, that the mirassi right of the lands was vested in them, the defendants, and not in the pagoda. The defendants, for instance, contended that the mirassi right of the lands being vested in them, their allowance of 2 cullums and 2 marcals of paddy per *chay*, for the maintenance of the pagoda, was a mere charitable contribution, and not obligatory upon them; whereas, from the evidence of their witnesses, it appeared that it was exacted from them as a *swami bhogum*, which they were bound to deliver, and, if this were the case, it was to be inferred that the proprietary right of the lands was not vested in them.

The ground upon which the claim was resisted by the defendants obviously rendered it necessary to ascertain, in the first place, where the proprietary right of the lands was vested; but, for the determination of this question, if it had been legally before the Court,

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the evidence upon the record appeared altogether insufficient.

It further appeared to the Sudr Udalut that, if the question of proprietary right were decided; if the defendants had admitted it to be vested in the pagoda, and contended that they were liable to the payment of a *swami bhogum*, at the rate of 2 cullums and 2 marcals only, instead of 3 cullums and 7 marcals as claimed by the plaintiffs, the evidence adduced would still be insufficient for the determination of the question at issue between the parties. Indeed, the Zillah Judge, by refusing to receive the village accounts, deprived the defendants of documentary evidence, which might have been conclusive on this point.

Considering, therefore, that the proceedings in the lower Courts were in many respects erroneous, and that the evidence which appeared on the record was defective and altogether unsatisfactory, the Court were of opinion that it would be conducive to the ends of justice to annul all the proceedings held in this case, allowing the original plaintiffs or their representatives to commence a suit *de novo*, if they should think proper, for the establishment of their claims upon the defendants; and the Court accordingly adjudged that the whole of the proceedings in this case be annulled, except so far as to preserve the right of the original plaintiffs or their representatives to sue the defendants for the matter at issue.

But, as possession of the lands was not claimed by the original plaintiffs, and as the Provincial Court, therefore, were not warranted in awarding such possession to them, the Court further adjudged that the original defendants or their representatives be re-placed in possession of the lands, and that the parties who held possession pursuant to the decree of the Provincial Court do account to the said defendants or their representatives for the produce of the lands from the time at which the said defendants were ousted.

The Court having annulled the proceedings of the lower Courts in this case on the ground of their irregularity, deemed it equitable that the institution fees paid by the parties in the several Courts should be returned to them, and the Court accordingly adjudged that the institution fees be returned to the respective parties by whom they were paid.—*Idem*, *p*. 58.

OFFICIAL PAPERS.

Sanitary condition of the Madras Presidency—Fusly 1278, A. D. 1868.

Proceedings of the Madras Government, Revenue Department, 9th May 1870.

Read the following letter from the Acting Secretary to the Board of Revenue, to the Acting Secretary to Government, Revenue Department, Fort Saint George, dated Madras, 1st February 1870, No. 710:—

With reference to the Order of Government, dated 18th April 1868, No. 1,034, I am directed by the Board of Revenue to submit the following report on the sanitary condition of the districts of this Presidency (exclusive of the town of Madras) for Fusly 1278, together with an abstract statement showing the ratio of mortality to population.

2. The registration of births having commenced from April 1868, an abstract statement of births during the period embraced in this report is also submitted for the information of Government.

3. According to the district returns the total number of births was 440,609, being a ratio of 17·21 per mille of whole population. The ratio was highest in Tanjore and lowest in Madura, being respectively 24·04 and 11·27. The obvious inaccuracy of the returns from the latter district, as well as from Ganjam, Vizagapatam, and other zemindary districts, is no doubt attributable to the great difficulty there is in collecting statistics in permanently settled estates. A superstitious reluctance on the part of the rural population generally to give a true account of births, and the imperfect machinery in some cases for collecting reliable statistics in large towns, render the attainment of accuracy in statistics of this description a work of great difficulty. The Board have, however, reason to believe that, as the interest of the local officers in the collection of these statistics is awakened, and the fears of the people are in some measure dispelled, the difficulties are being

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gradually overcome and real improvement being made. The Board think it at present premature to discuss the results disclosed by the abstract returns of births now submitted for the first time. But the attention of Collectors is being frequently directed to this important matter.

4. The Mortuary Returns show that the total number of deaths during the fusly was 385,596, being in a proportion of 15·06 per mille of population against 13·95 in the preceding fusly. The increase indicates improved accuracy in the returns, but it is obvious that in the majority of districts the returns are still unreliable. The Board have, in their Proceedings of 25th October 1869, No. 7,908, placed before Government their views as to the machinery necessary for the accurate collection of vital statistics in this Presidency. Classified with reference to their causes, the deaths are distributed as per margin. The proportion of deaths due to each cause is also exhibited.

Cholera ...	4,490	0·01
Small-pox ...	24,070	0·94
Fever ...	1,09,105	4·26
Age ...	40,940	1·59
Other diseases ...	1,97,913	7·73
Violent causes ...	8,920	0·34

5. The number of deaths from cholera was happily very few, only 4,490 against 16,046 in Fusly 1277, and 175,645 in Fusly 1276. The prevalence of cholera to any great extent was confined to two districts, viz., Bellary and Kurnool. The rest of the Presidency may be said to have enjoyed comparative immunity from this epidemic. In Godavery and Kistna there were absolutely no cases; in Nellore, Madras, and Coimbatore, almost next to none. In some few districts the cases reported are stated to have been simple diarrhœa mistaken for cholera:—

Cholera.

	Fusly 1277.	Fusly 1278.
Ganjam	343	429
Vizagapatam	132	109
Godavery	324	...
Kistna	1,390	...
Nellore	10	6
Cuddapah	31	155
Bellary	2	1,488
Kurnool	43	1,357
Madras	63	3
North Arcot	544	113
South Arcot ...	2,343	54
Tanjore	5,647	261
Trichinopoly ...	2,928	77
Madura	388	67
Tinnevelly	104	80
Coimbatore	373	15
Salem	1,073	60
South Canara	202	137
Malabar	176	79
Total...	16,046	4,490

6. In Bellary the epidemic raged chiefly in the eastern portion of the district, and is stated to have originated with the large number of travellers by rail, who congregate and make a temporary stay in the vicinity of the stations before proceeding finally to their destination. Detached camps with conveniences for the sick were established at Bellary, Anantapore, and Ghooty with great success, in addition to the supply of medicines through the agency of the Tahsildars. At the great annual festival of Humphy, which used to be the hot-bed of the disease, not a single case occurred. The outbreak of cholera in Kurnool is not traced to any particular cause.

7. It is also worthy of note that at the places named below, where a very large concourse of people assemble from various parts of the country during the annual festivals, the absence of cholera was happily conspicuous. Stringent sanitary precautions were taken at these places, and the effect of such measures was doubtless advantageous, though it would be taking too much credit for them to suppose that they alone prevented the outbreak of the epidemic:—

Trivellore. Conjeveram.	Madras.
Combaconum. Nagore. Negapatam. Trivellore.	Tanjore.
Streerungum ...	... Trichinopoly.

8. The deaths from small-pox, though less in number compared with the preceding fusly, were still very numerous, namely, 24,070 against 33,623. In the Kistna, Nellore, Cuddapah, Bellary, and Kurnool districts they were much more numerous than in the preceding year, while a considerable decrease occurred in Godavery, Madras, North Arcot, South Arcot, Tanjore, Madura, Coimbatore, Salem, and Malabar. It is observed that in Fusly 1276 these districts enjoyed comparative immunity from this disease. The Collectors of the Kistna, Bellary, and Tanjore districts still consider the present system of vaccine operations defective and susceptible of great improvement. The Board are aware that the Superintendent-General of Vaccination is most anxiously devoting his attention to the subject, and is willing to adopt any suggestions from the District Officers for the better management of the operations of his department. It would be out of place to go into the subject further in this report, but it is receiving all due attention.

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Small-pox.

	Fusly 1277.	Fusly 1278.
Ganjam	355	338
Vizagapatam	653	556
Godavery	2,154	1,165
Kistna	1,281	1,719
Nellore	1,587	2,003
Cuddapah	966	1,606
Bellary	1,708	2,102
Kurnool	614	1,623
Madras	2,756	1,097
North Arcot	5,175	2,082
South Arcot ...	1,500	1,064
Tanjore	3,350	2,684
Trichinopoly	799	514
Madura	1,964	1,197
Tinnevelly	1,935	1,878
Coimbatore	1,056	664
Salem	1,804	852
South Canara ...	275	113
Malabar	3,691	715
Total...	33,623	23,972

9. Fever prevailed in all the districts, and the total number of deaths from this cause was nearly as large as in the preceding year. The cases were fifty per cent less in two districts, Godavery and South Canara. In the rest the number was either greater than, or nearly the same as in, the last year. The distribution of fever pills during the height of the disease in particular localities goes but a little way in checking its ravages; and, as remarked by the Board in their last report, nothing can successfully grapple with this epidemic but a well-organized agency educated on the European system of medicine. Under the recent orders of Government quinine is now offered for sale by the Revenue Officers, and it is hoped that the progress of cinchona cultivation will soon admit of other and less expensive preparations of bark being available.

Fever.

	Fusly 1277.	Fusly 1278.
Ganjam	6,038	8,222
Vizagapatam	9,398	7,250
Godavery	15,209	6,955
Kistna	3,835	2,205
Nellore	1,815	2,089
Cuddapah	5,236	9,115
Bellary	7,883	8,845
Kurnool	6,690	8,523
Madras	1,961	2,198
North Arcot	7,425	7,820
South Arcot ...	2,670	2,504
Tanjore	4,833	6,670
Trichinopoly ...	2,374	2,470
Madura	3,697	3,999
Tinnevelly	2,015	2,544
Coimbatore	2,604	3,381
Salem	4,760	7,085
South Canara	10,498	5,536
Malabar	9,563	11,269
Total...	1,05,504	1,08,680

10. The deaths from age appear to have been nearly the same number as in the preceding year, having been 40,940 against 35,788, and those ascribed to other diseases were 197,913 against 157,095.

11. Those from violent causes also show little variation from the year preceding, as will be observed from the following figures :—

Violent Causes.

	Fusly 1277.	Fusly 1278.
Accidents.		
Drowning	3,884	4,017
Snake Bite	2;048	2,310
Wild Beasts	323	234
Other accidents... ...	1,833	1,738
Suicides.		
Hanging	188	210
Drowning	253	270
Poison	35	49
Other suicides	87	92
Total...	8,651	8,920

12. The ratios of births and deaths in each district of the Presidency is given below. For the reasons already stated in paragraph 3, the Board will not discuss the apparently discordant results which these figures disclose :—

	Births.	Deaths.
Ganjam	18·96	13·17
Vizagapatam	16·52	12·68
Godavery	15·62	14·62
Kistna	19·32	15·23
Nellore	16·06	16·34
Cuddapah	13·48	17·87
Bellary	16·13	19·45
Kurnool	17·92	23·16
Madras	20·46	17·69
North Arcot	21·67	17·36
South Arcot	12·80	11·09
Tanjore	24·04	20·16
Trichinopoly	17·21	13·66
Madura	11·27	8·15
Tinnevelly	15·93	13·23
Coimbatore	14·26	11·33
Salem	15·43	12·45
South Canara	15·74	19·81
Malabar	22·17	16·60
Neilgherries	17·93	21·21

13. On the whole, Fusly 1278 may be described to have been a healthy year, and distinguished from its predecessors by a marked freedom from cholera enjoyed by the greater part of the Presidency. The prices of food-grains were moderate, and the poorer classes were exposed to little distress.

14. The last report from the districts having been received so late as November, it has not been found practicable to submit this review at an earlier date. The Board trust that future reports will be submitted at a less interval from the close of the Fusly year.

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ENCLOSURE

Abstract Statement of Deaths in the several Districts

DISTRICTS.	Population.			Mortality.		
	Males.	Females.	Total.	Males.	Females.	Total.
	No.	No.	No.	No.	No.	No.
1. Ganjam ...	650,482	585,308	1,235,790	8,826	7,453	16,279
2. Vizagapatam ...	785,623	719,422	1,505,045	10,455	8,631	19,086
3. Godavery ...	722,713	704,759	1,427,472	11,170	9,707	20,877
4. Kistna ...	664,088	632,564	1,296,652	10,350	9,398	19,748
5. Nellore ...	607,199	561,465	1,168,664	10,106	8,972	19,078
6. Cuddapah ...	597,661	547,098	1,144,759	11,665	8,802	20,467
7. Bellary ...	680,698	624,300	1,304,998	13,253	12,137	25,390
8. Kurnool ...	397,479	373,378	770,857	9,592	8,266	17,858
9. Madras ...	413,366	390,917	804,283	7,253	6,979	14,232
10. North Arcot ...	......	......	1,787,134	16,789	14,240	31,029
11. South Arcot ...	658,184	603,662	1,261,846	7,408	6,586	13,994
12. Tanjore ...	820,759	849,474	1,670,233	16,901	16,786	33,687
13. Trichinopoly ...	504,245	502,581	1,006,826	7,107	6,655	13,762
14. Madura ...	968,115	978,274	1,946,389	8,528	7,348	15,876
15. Tinnevelly ...	760,165	766,533	1,526,698	10,535	9,675	20,210
16. Coimbatore ...	705,017	688,565	1,393,582	8,606	7,178	15,784
17. Salem ...	819,218	800,015	1,619,233	10,654	9,511	20,165
18. South Canara ...	424,959	411,060	836,019	8,821	7,745	16,566
19. Malabar ...	927,144	922,527	1,849,671	17,008	13,691	30,699
20. Neilgherries ...	20,858	17,284	38,142	488	321	809
Total...	12,127,973	11,679,186	25,594,293	2,05,515	180,081	385,596

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No. 1.
of the Madras Presidency for Fusly 1278.

Details of Deaths.														Ratio per 1,000 calculated on columns.	Remarks.
From Disease.					From Violence.								Murders.		
					Accidents.				Suicides.						
Cholera.	Small-pox.	Fever.	Age.	Other diseases.	Drowning.	Snake Bite.	Wild Beasts.	Other accidents.	Hanging.	Drowning.	Poison.	Other suicides.	Murders.	Ratio per 1,000 calculated on columns.	Remarks.
No.	No.	No.	No.	No.	No.	No.	No.	No.	No.	No.	No.	No.	No.	No.	
429	338	8,222	730	6,316	90	44	23	64	8	2	1	...	12	13·17	
109	556	7,250	2,105	8,699	100	70	16	139	7	17	...	6	12	12·68	
...	1,165	6,955	1,294	10,967	214	120	7	93	10	37	4	6	5	14·62	
...	1,719	2,205	4,546	10,775	205	88	3	118	12	65	2	5	5	15·23	
6	2,003	2,089	2,666	11,832	291	112	14	33	6	12	1	...	13	16·34	
155	1,606	9,115	2,032	6,936	458	78	12	65	3	1	...	1	5	17·87	
1,488	2,102	8,845	1,910	10,548	255	55	3	109	13	37	3	6	16	19·45	
1,357	1,623	8,523	907	5,155	141	43	17	87	1	...	1	...	3	23·16	
3	1,097	2,198	1,541	9,249	76	52	1	6	1	1	6	1	...	17·69	The Madras District is exclusive of the town of Madras.
113	2,082	7,820	3,164	17,204	360	116	11	73	10	62	7	4	3	17·36	
54	1,064	2,504	1,762	8,152	139	187	47	66	12	...	4	...	3	11·09	
261	2,684	6,670	4,839	18,521	239	380	6	68	11	...	3	...	5	20·16	
77	514	2,470	1,722	8,595	117	116	3	130	5	3	3	2	5	13·66	
67	1,197	3,999	817	9,420	136	138	7	51	6	10	2	20	6	8·15	
80	1,878	2,544	1,509	13,736	267	65	5	85	7	2	2	22	8	13·23	
15	664	3,381	3,118	8,125	243	135	19	62	12	1	...	4	5	11·33	
60	852	7,085	1,134	10,532	248	127	14	90	10	3	...	1	9	12·45	
137	113	5,536	1,813	8,430	180	81	23	195	29	10	6	3	10	19·81	
79	715	11,269	3,283	14,494	256	303	...	200	47	7	3	11	32	16·60	
...	98	425	48	227	2	...	3	4	...	...	1	...	1	21·21	
4,490	24,070	109,105	40,940	197,913	4,017	2,310	234	1,738	210	270	49	92	158	15·06	

(Signed) A. MACGREGOR,
Acting Secretary

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ENCLOSURE No. 2.

Abstract Statement of Births in the several Districts of the Madras Presidency for Fusly 1278.

DISTRICTS.	Population. Males.	Population. Females.	Population. Total.	Births. Males.	Births. Females.	Births. Total.	Ratio per 1,000 calculated on columns between 4 and 7.	Remarks.
1	2	3	4	5	6	7	8	9
Ganjam	650,482	585,308	1,235,790	12,488	10,944	23,432	18·96	
Vizagapatam	785,623	719,422	1,505,045	12,888	11,978	24,866	16·52	
Godavery	722,713	704,759	1,427,472	11,257	11,039	22,296	15·62	
Kistna	664,088	632,564	1,296,652	12,726	12,326	25,052	19·32	
Nellore	607,199	561,465	1,168,664	9,668	9,105	18,773	16·06	
Cuddapah	597,661	547,098	1,144,759	7,995	7,446	15,441	13·48	
Bellary	680,698	624,300	1,304,998	11,359	10,703	22,062	16·13	
Kurnool	397,479	373,378	770,857	7,065	6,755	13,820	17·92	
Madras	413,366	390,917	804,283	8,554	7,908	16,462	20·46	The Madras District is exclusive of the town of Madras.
North Arcot	......	......	1,787,134	20,080	18,652	38,732	21·67	
South Arcot	658,184	603,662	1,261,846	8,712	7,445	16,157	12·80	
Tanjore	820,759	849,474	1,670,233	20,664	19,498	40,162	24·04	
Trichinopoly	504,245	502,581	1,006,826	9,208	8,127	17,335	17·21	
Madura	968,115	978,274	1,946,389	11,647	10,297	21,944	11·27	
Tinnevelly	760,165	766,533	1,526,698	12,806	11,521	24,327	15·93	
Coimbatore	705,017	688,565	1,393,582	10,451	9,422	19,873	14·26	
Salem	819,218	800,015	1,619,233	12,713	12,297	25,010	15·43	
South Canara	424,959	411,060	836,019	6,801	6,355	13,156	15·74	
Malabar	927,144	922,527	1,849,671	21,275	19,750	41,025	22·17	
Neilgherries	20,858	17,284	38,142	357	327	684	17·93	
Total...	12,127,973	11,679,186	25,594,293	228,714	211,895	440,609	17·21	

(Signed) A. MACGREGOR,
Acting Secretary.

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Order thereon, 9th May 1870, No. 667.

Resolved that the foregoing report be submitted to the Right Honourable the Secretary of State for India, with reference to paragraph 4 of his despatch, dated 29th February 1868.

2. The Local Fund Bills, now under consideration in the Legislative Department, should they become law, will place the Government in a position to do much towards improving the sanitary condition of the Presidency, and will, it is hoped, enable them to take steps for training up a class of Native Medical Practitioners.

3. It is satisfactory to observe that the precautionary measures referred to in paragraphs 6 and 7 of the Board's letter were followed by such good results.

(True Extract.)

(Signed) R. A. DALYELL,

Acting Secy. to Government.

REVISION OF ASSESSMENT—MADRAS DISTRICT.

Proceedings of the Madras Government, Revenue Department, 17*th May* 1870.

Read the following letter from the Acting Director of Revenue Settlement, Madras, to the Acting Secretary to Government, Revenue Department, Fort Saint George, dated 16th May 1870, No. 685-20 :—

In reply to the Proceedings of Government, dated 3rd May 1870, No. 630, I have the honour to report that I shall be able to commence settlement operations in the Sydapet Taluk on the 15th June next, subject to the consent of Government. The Board of Revenue, under whom the Tinnevelly Party are now working, have kindly spared the services of one Head Classifier, six Classifiers, and a Goomastah, the Board have also allowed me to make use of the Tinnevelly Supervisor, Iyyaviengar, who happens to be now at Madras. From the Salem Party I can send for four Classifiers, one Head Classifier, and one Goomastah, so that the Party would be as follows :—

1 Supervisor,
2 Head Classifiers,
10 Classifiers,
2 Goomastahs,

with the peons who are already attached to these employés. No Assistant Director can be spared, and "as no expenditure in excess of the Budget provision for the department can be sanctioned," I propose taking charge of the party myself after my return from Salem, about the 12th proximo. I trust the above arrangements may be approved of. The Supervisor, the Head Classifiers, and likewise some of the Classifiers whom I have now selected, all worked under me when I was Deputy Director; so I do not anticipate that the management of these tried and trained servants will detrimentally interfere with my other duties or with trips for supervision elsewhere.

2. As the Government are aware, a considerable tract of country, situated in the Ponnary Taluk, will be directly affected by the present irrigation project; and, as this taluk is well nigh completed as regards survey operations, I would suggest that this might be taken up by our department concurrently with Sydapet.

3. One main cause of delay in the settlement of these taluks is that numerous experiments as to the outturn of crops on the various soils must be made, and at present there are no crops ready for cutting. The Kar paddy crop can be tested in September and October; the dry crops in October and December; and the Sumba paddy at the end of January and during February. This unavoidably puts matters back, so that I could not give the rates reliably and thoroughly worked out before the 1st May next. An approximate set of rates for the various soils in Sydapet and Ponnary could be submitted by the 15th October next, and these would be fair data for working upon as regards returns from extended irrigation.

4. I would solicit the sanction of Government for the payment of batta to the Supervisor, who will not only be put to extra expense but will also have extra work, as I should require him both in the office and in the field. He is not, strictly speaking, entitled to batta; but I trust, as a special case, he may be allowed Rupees 1-4-0 per diem, the rate allotted to Revenue servants who receive a similar salary of Rupees 150. This item, as well as the travelling and rail charges to be disbursed to the other servants, might be met from the Budget allotments of the parties to which they respectively belong.

Order thereon, 17th May 1870, No. 729.

The Right Honourable the Governor in Council sanctions the arrangements proposed by the Acting Director of Revenue Settlement in the foregoing letter for at once undertaking the revision of the Land Revenue Settlement in the taluks of Sydapet and Ponnary, in the Madras District.

2. It is presumed, from paragraph 1 of his letter, that the Acting Director has been in communication with the Board of Revenue on the subject, and that they concur in his recommendations.

3. The extra batta to the Supervisor and the travelling and railway charges of the other servants are sanctioned as requested in the concluding paragraph of the Acting Director's letter.

(True Extract.)

(Signed) R. A. DALYELL,

Acting Secy. to Government.

VENCATAGHERRY RAJAH'S MACHINE FOR RAISING WATER.

Proceedings of the Madras Government, Revenue Department, 23*rd May* 1870.

Read the following Proceedings of the Board of Revenue, dated 25th March 1870, No. 1,953 :—

Read again Board's Proceedings, dated 2nd July 1869, No. 4,728.

Read also the following letter from the Honorary Secretary, Government Experimental Farm, Madras, to the Acting Secretary to the Board of Revenue, dated 26th January 1870, No. 87.

I have the honour to acknowledge receipt of Board's Proceedings of 21st December 1869, No. 9,428, and to forward the remarks called for in paragraph 2 on the Rajah of Vencatagherry's machine for raising water.

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2. I regret the subject escaped my notice previously, as the papers were received just before I left for Oossoor in July last.

3. The machine could not be made here for treble the price estimated by the Rajah, nor do I think it could be made anywhere for the price named except by a wealthy land-owner with his own wood and workmen; nothing, moreover, is allowed for bags and ropes. The cost of two leather bags lately purchased for the Farm was Rupees 22, and the bags and ropes constantly need repair.

4. The machine is a common jim, of not very good pattern, with two leather bags attached for raising the water, called in Bengal the "Double Mhote."

5. In the Roorkee Professional Papers* on Indian engineering a full account is given in Volume I., No. II., page 172, of machines for raising water, with drawings, descriptions, tables, calculations of cost, and a comparative table of five different machines, of which the "Double Mhote" is one.

* Herewith sent, to be returned.

6. The best pump which has yet been tried at the Government Experimental Farm, Sydapet, where pecottahs, mhotes, (single and double chains), V. pumps, Norton's force pumps, and bucket pumps, have been experimented on, is the improved bucket pump, of which a full description† is given in the accompanying copy of a letter to the *Indian Economist*.

† Drawing also sent.

7. Though expensive at first, the bucket pump is very easily managed, requires almost no repair, and soon pays for the original outlay by doing more than double the work of any other pump.

ENCLOSURE No. 1.—One copy of letter to the *Indian Economist*.

ENCLOSURE No. 2.—One drawing.

ENCLOSURE No. 3.—Book.

Submitted to Government with reference to Government Order, dated 13th November 1869, No. 2,957.

2. It will be observed that the Honorary Secretary of the Government Farm Committee describes the Rajah of Vencatagherry's machine for raising water, referred to in Board's Proceedings, dated 20th March 1869, No. 1,918, as a not very good pattern of a machine known in Bengal as the "Double Mhote."

3. The Rajah estimates the cost of his machine, exclusive of leather bags and ropes, at Rupees 28-2-0. Mr. Hunter Blair, however, says that it could not be made in Madras for treble that sum, and he doubts whether it could be made anywhere for that price, except by a wealthy land-owner with his own wood and workmen.

4. From the account given in the Roorkee Professional Papers, Vol. I., No. II., page 172, it appears that the "Double Mhote" is the most effective of the five machines therein described.

5. Mr. Blair, however, reports that the result of experiments made at the Government Farm with various kinds of machines for raising water, including the "Double Mhote," goes to show that the "Improved Bucket Pump" is the best. A full description and a drawing of this machine accompany his report.

Order thereon, 23rd May 1870, No. 760.

The Acting Collector of Nellore is requested to convey to the Rajah of Vencatagherry the thanks of Government for his introduction of a contrivance for raising water hitherto unknown in the Nellore District. Mr. Master will at the same time call the Rajah's attention to the remarks of the Honorary Secretary, Government Farm, on the "Bucket Pump" in paragraphs 6 and 7 of his letter, dated 26th January 1870, No. 87.

(True Extract.)

(Signed) R. A. DALYELL,

Acting Secy. to Government.

SILK WEAVING—KISTNA DISTRICT.

Proceedings of the Madras Government, Revenue Department, 24th May 1870.

Read the following Proceedings of the Board of Revenue, dated 29th April 1870, No. 2,847:—

Read the following letter from the Officiating Collector of the Kistna District, to the Acting Secretary to the Board of Revenue, dated Masulipatam, 15th March 1870, No. 1,054.

In continuation of my letter, dated 25th January 1870, No. 367, regarding the state of silk manufactures in this district, I have the honour to state that the only place where silk-weaving is carried on is in Jaggayapet, a town on the frontier of the Nizam's dominions. From inquiries I am informed that the silk is all obtained in a raw state from ten villages in the Mysore territories, namely, 1, Magidi; 2, Koteru; 3, Oscotta; 4, Ramagiri; 5, Cheratamanipetta; 6, Chellakallur; 7, Kitapett; 8, Kacherla; 9, Allapuram; 10, Madura Chennapatnam; and from two villages in the Cuddapah District, 1, Kate Kabila; 2, Kadri.

2. The silkworms are said to be fed on the leaves of the (Hindustani) *Thatut*, (Telugu) *Rudrakshachettu*. They yield the cocoons in forty-five days. The raw silk is purchased by the manufacturers at Rupees 22 per five seers; it is brought to Jaggayapet, where it is reeled, and died, and woven, when it is sold at the rate of Rupees 10 a seer.

Submitted to Government in continuation of Board's Proceedings, dated 19th February 1870, No. 1,151.

Order thereon, 24th May 1870, No. 769.

Ordered to be recorded.

(True Extract.)

(Signed) H. WELLESLEY,

Acting Under-Secy. to Govt.

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CERTIFICATES UNDER REGISTRATION ACT.

Proceedings of the Madras Government, Revenue Department, 1st June 1870.

Read the following papers:—

Proceedings of the Board of Revenue, dated 29th March 1870, No. 2,060.

Read the following letter from the Acting Collector of Malabar, to the Acting Secretary to the Board of Revenue, dated Calicut, 15th February 1870, No. 65.

I have the honour to draw the attention of the Board to the proviso contained in paragraph 16, Schedule 2, Act XVIII of 1869, and to request their instructions as to whether I can appoint Tahsildars and Deputy Tahsildars to grant the required certificates. At the same time I beg to observe that the Sub-Registrars would be the best persons to grant the certificates, as the original instrument will, in almost all cases, have to be registered; and if the counterpart is presented at the same time, there will be no difficulty in endorsing the required certificate upon it.

Submitted for the orders of Government.

2. It appears to the Board that, as suggested by the Collector, it will be convenient to all parties if Sub-Registrars are authorized to grant the certificates required by Article 16, Schedule II, Act XVIII of 1869.

From the Acting Registrar-General of Assurances, Madras, to the Acting Under-Secretary to Government, Fort Saint George, dated 6th May 1870, No. 30.

In acknowledging the receipt of your docket on the Proceedings of the Board of Revenue, dated 29th March last, No. 2,060, I have the honour to state that, as observed by the Board, it will be convenient to all parties to authorize Registering Officers to grant the certificates required by Article 16, Schedule II of the General Stamp Act. It will not be sufficient, however, to authorize the Sub-Registrars only as contemplated by the Collector of Malabar and the Board. Registrars and the Registrar-General will need to be authorized as well as they have also powers of original registration under Sections 31 and 32 of Act XX of 1866.

Order thereon, 1st June 1870, No. 799.

Ordered that a copy of the Acting Registrar-General's letter be furnished to the Board of Revenue, and that they be requested to instruct the Collectors to authorize the Registrar-General, all Registrars, and Sub-Registrars, to grant the certificates required by Article 16, Schedule 2, Act XVIII of 1869.

(True Extract.)

(Signed) R. A. DALYELL,

Acting Secy. to Government.

ADVANCES TO PROPRIETORS FOR AGRICULTURAL IMPROVEMENTS.

From E. C. BAYLEY, Esq., C. S. I., Secretary to the Government of India, Home Department, to the Secretaries to the Governments of Madras, Bombay, and Bengal, Nos. 323 to 325, dated Simla, 2nd June 1870.

The Governor-General in Council has for some time past been satisfied that measures might be taken with great advantage in many parts of India for extending and improving the system of giving assistance to proprietors of land for the construction of permanent works of agricultural improvement. I am directed to request the attention of ——* to this subject, and to state that His Excellency in Council will be glad to be informed of the views of——† regarding the measures which might properly be adopted.

* *To Madras and Bombay*—His Excellency the Governor in Council.

To Bengal—His Honour the Lieutenant-Governor.

† The Government of—*Madras, Bombay, and Bengal.*

2. The Government has always, if not by extensive practice at least by its legislation, recognized the duty which in this country devolves upon it of giving advances of public money for the promotion of agricultural improvements. The system of making such advances, usually called *tuccavee*, has existed more or less in the Bengal Presidency almost from the commencement of our rule. The existing law upon the subject is contained in Regulation II of 1793, Regulation XIV of 1793, Regulation III of 1794, and Regulation VI of 1795. The security is complete, since the land on which the improvement is made is declared by the law to be responsible for the re-payment of the advances, and they may be recovered by the same processes which are applicable to the recovery of arrears of land revenue.

It appears to the Governor-General in Council that it would be desirable to consolidate and amend the existing law on this subject. The provisions of the old enactments that have been quoted are obviously incomplete, and they are in some respects hardly suited to the circumstances of the present time.

3. The system under which *tuccavee* advances for permanent improvements have been given in many parts of India is identical in principle with that which has been carried out in the United Kingdom, with admirable results, by means of the Land Improvement Acts. The Governor-General in Council believes that this principle may receive a much wider and more systematic development in India than has hitherto been given to it, and he believes that no sounder or more useful principle could be acted upon by a Government which desires to make the resources of the State available for the promotion of the wealth and improvement of the people. There is perhaps no country in the world in which the State has so immediate and direct an interest in such questions. The Government of India is not only a Government, but the chief landlord. The land revenue, which yields twenty millions of our annual income, is derived from that portion of the rent which belongs to the State, and not to individual proprietors. There can be no doubt that throughout the greater part of India every measure which can be taken for the improvement of the land and for increasing its productive powers immediately enhances the value of the property of the State, and adds ultimately to the

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public resources without the imposition of any fresh burden on any class of the community.

4. The class of works for the construction of which the assistance of the Government might properly be given to the owners and occupiers of land, would not be difficult to define. Advances of money should be usually given for that description of work only which can be designed and carried out, with a small amount of assistance, under the direction of the local proprietors themselves. These advances should not be made for great works requiring, in their design or construction, engineering skill of a high order or the employment of large bodies of labourers. Such works if undertaken by the Government must necessarily be undertaken through the Department Public Works. The works for which advances might properly be made would commonly fall into some one of the following classes :—

(1.)—Wells and other works for the storage, supply, or distribution of water for agricultural purposes, and the preparation of land for irrigation.
(2.)—Drainage.
(3.)—The re-claiming of land from rivers.
(4.)—The protection of land from floods.
(5.)—The re-claiming, clearing, and enclosing of waste lands for agricultural purposes.
(6.)—The clearing of land from stones or other obstacles to cultivation.

5. It is believed that it would not be difficult to devise and bring into operation a system under which advances of money might be made by the Government for works of this description, mainly through the agency of the District Officers of the Government and with complete security against loss, and the benefits derived from such an application of capital to the permanent improvement of the land might be of almost incalculable importance. His Excellency in Council is disposed to think that there are no objects to which a portion of the loans, which it is proposed to raise every year for reproductive works, could be more advantageously and properly devoted. Such portion of the borrowed money of the year as, in the opinion of the Government of India, could be usefully lent for such purposes, would be placed at the disposal of the local Governments. The extension of irrigation canals and the development of our railway system will necessarily stimulate agricultural industry, and the importance of facilitating to the utmost the prosecution of minor works of land improvement will, under such circumstances, be specially great.

6. It appears to the Governor-General in Council that no elaborate machinery or expensive staff of officers would be necessary for the gradual development of a system which in all essential respects has long been known to, and approved by, the people. In the existing establishments of the Revenue and Public Works Departments it is probable that we possess already in the greater part of India an organization quite sufficient for the purpose. The character of most of the works would be so simple that the Collector or District Officer on whom would fall the chief duty of making the advances and of supervising the execution of the works would find little difficulty in taking all necessary precautions to prevent the occurrence of abuses and to secure the proper application of the money to the purposes for which it was advanced.

7. It appears to the Governor-General in Council that in revising the law upon this subject some such provisions as the following might be adopted.

8. Any person desiring to make an improvement in his land of the character referred to in the fourth paragraph of this letter, would be authorized to make an application to the Collector for an advance of money to enable him to make the improvement.

The local Government, with the sanction of the Governor-General in Council, would be authorized to make rules prescribing the manner in which such applications should be made, and in which inquiries relating to applications should be conducted; for determining the conditions under which advances might be made, and under which they would be re-payable; for securing the due expenditure of the advances, the due execution, inspection, and maintenance of the work for which the advance was made; and for the keeping and auditing of accounts.

9. Advances would ordinarily be made to the landlord or to tenants whose interest in the land exceeded the term fixed for the re-payment of the advance; but they might, with the landlord's consent, be made to any tenant desirous of making an improvement on the land in his occupation.

10. On receiving an application for an advance, the Collector would make such inquiry as appeared necessary in regard to the propriety of making the advance. If the result of such inquiry should be to satisfy the Collector that the proposed improvement would increase the annual value of the land in which the improvement is to be made to an amount exceeding the sum to be charged annually upon the land for the re-payment of the advance, he would be authorized (subject to the rules referred to in paragraph 8) to grant a certificate sanctioning an advance of money for the purpose of making the improvement. The certificate would state the amount of the advance, the conditions under which it was to be made, and under which it was to be re-paid by instalments or otherwise, and it would specify the land which, in the event of the conditions not being fulfilled, would become chargeable for the re-payment of the advance.

After the certificate was granted the Collector would be authorized to make the advance.

11. The law would provide that, when any sum stated in the certificate became due, it would be recoverable from the person to whom the advance was made, or from any person who had become security for re-payment, as if it were an arrear of land revenue due by the person to whom the advance was made, or by his security. If any sum could not be so recovered, it would be recoverable as if it were an arrear of revenue due on the land specified in the certificate.

Any sums expended by the Collector in accordance with the rules referred to in paragraph 8 in making local inquiries or otherwise in carrying into effect the provisions of the law in behalf of a person applying for an advance, would be recoverable in the same manner.

12. It is hardly necessary to repeat that the present proposals refer only to advances for works

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of permanent agricultural improvement. The Governor-General in Council is aware that a vicious system formerly prevailed in some parts of India under which nominal advances called *tuccavee* were often made to liquidate balances of Government revenue and for other temporary purposes. Such advances, unless under very exceptional circumstances, were clearly incompatible with good revenue administration, and they had nothing in common with the system which it is now proposed to introduce.

13. The Governor-General in Council requests that ——* will be good enough to state any opinions which he may hold in regard to the subject of this letter, and that he will favour the Government of India with any recommendations the adoption of which may appear to him likely to increase the usefulness of the measures, of which a sketch has now been given.

* *To Madras and Bombay*—His Excellency the Governor in Council.

To Bengal—His Honour the Lieutenant-Governor.

14. If ——* should concur with the Government of India in the views stated in this letter and should consider legislation on the subject desirable, I am to request that ——† will state whether in his opinion it would be expedient to pass in the Council of the Governor-General a law applicable to ——‡ as well as to other parts of India, or whether ——† would prefer to deal with the subject in his own Council.

* *To Madras and Bombay*—His Excellency the Governor in Council.

To Bengal—His Honour the Lieutenant-Governor.

† *To Madras and Bombay*—His Excellency.

To Bengal—His Honour.

‡ Madras, Bombay, Bengal.

Re-published by order of His Excellency the Governor in Council.

R. S. ELLIS,
Chief Secretary.

CIRCULAR ORDER OF THE BOARD OF REVENUE.

No. XI. of 1870.

STANDING No. 295-2.

Proceedings of the Board of Revenue, dated 22nd July 1870, *No.* 4,999.

In every case in which the defence of a suit against an officer of Government is undertaken, in the first instance at the public expense, a copy of the judgment and decree of the Court in which the suit may be heard must be submitted through the Board for the information of Government.

(A true Extract.)

(Signed) J. GROSE,
Acting Secretary.

(True Copy.)

(Signed) J. T. MAYNE,
First Assistant.

ACT OF THE GOVERNMENT OF INDIA.

ACT No. XI. OF 1870.

THE INDIAN WEIGHTS AND MEASURES ACT, 1870.

An Act to regulate the Weights and Measures of British India.

Preamble.

Whereas it is expedient to provide for the ultimate adoption of an uniform system of weights and measures throughout British India; It is hereby enacted as follows:—

I.—Preliminary.

Short title. Local extent.

1. This Act may be called "The Indian Weights and Measures Act, 1870," and extends to the whole of British India.

II.—Standards.

Standard of weight.

2. The primary standard of weight shall be called a Ser, and shall be a weight of metal in the possession of the Government of India, which weight, when weighed in a vacuum, is equal to the weight known in France as the "Kilogramme des Archives."

Standard of length.

3. The primary standard of length shall be called a Metre, and shall be the distance between the marks at the ends of a rod of metal in the possession of the Government of India, which distance, when measured at the temperature of melting ice, is equal to the measure of length known in France as the "Metre des Archives."

Units of weight and measurement.

4. The units of weight and measurement shall be—for weights, the said Ser;

for measures of capacity, a measure containing one such ser of water at its maximum density, weighed in a vacuum;

for measures of length, the said metre;

for measures of area, the square metre;

for measures of solidity, the cubic metre.

Special weights and measures to be authorized.

5. The Governor-General in Council may, from time to time, by notification in the *Gazette of India*, declare the magnitude and denominations of the weights and measures, other than the said units, to be authorized under this Act:

Provided that every such weight or measure shall be an integral multiple or integral sub-multiple of one of the units aforesaid.

The Governor-General in Council may, in like manner, revoke such notification.

Unless it be otherwise ordered in any such notification, the sub-divisions of all such

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weights and measures shall be expressed in decimal parts.

6. The Governor-General in Council may, from time to time, by notification in the *Gazette of India*, define the limits of districts for the purposes of this Act.

Districts how defined.

The local Government may, from time to time, by notification in the Official *Gazette*, define the limits of sub-districts for the purposes of this Act.

Sub-districts how defined.

7. The Governor-General in Council shall provide, in such manner and for such districts as the said Governor-General in Council shall direct, proper primary standards and sets of the said authorized weights and measures.

Primary standards to be provided.

Such standards shall, for the purposes of this Act, be deemed the standards for such districts.

8. The local Government shall provide, in such manner and for such sub-districts as the local Government shall direct, copies of such of the said authorized weights and measures as shall be necessary to serve as local standards in such sub-districts.

Local standards to be provided.

Such local standards shall be deemed correct until they are proved to be otherwise.

III.—Use of new Weights and Measures.

9. Whenever the Governor-General in Council considers that proper standard weights and measures have been made available for the verification of the weights and measures to be used by any Government office or Municipal body or Railway Company, the Governor-General in Council may, by notification in the *Gazette of India*, direct that, after a date to be fixed therein, all or any of the weights and measures authorized as aforesaid shall be used in the dealings and contracts by such office, body, or company.

Use of new weights and measures in Government offices, &c.

10. The Governor-General in Council, or the local Government with the previous assent of the Governor-General in Council, may, by notification in the Official *Gazette*, direct that, after a date to be fixed therein, all or any of the weights and measures of capacity authorized as aforesaid shall, in every district or sub-district therein mentioned, be used in the dealings and contracts of all persons engaged in business or trade, or of the persons engaged in any specified business or trade;

General use of new weights and measures of capacity.

and may in like manner, from time to time, alter or revoke such direction;

Provided that no such notification shall issue until proper standard weights and measures have been provided for such district or sub-district.

11. After the date fixed in any notification under Section 9 or Section 10, all dealings and contracts had and made by the Officers, Bodies, Companies, or persons mentioned or referred to in such notification, for any work to be done or goods to be sold or delivered by weight or measure of capacity, length, area, or solidity, shall, in the absence of a special agreement to the contrary, be deemed to be had and made according to the weights and measures of capacity, length, area or solidity, as the case may be, directed in such notification to be used by such Officers, Bodies, Companies or persons.

Contracts by weight or measure.

IV.—Wardens.

12. The Governor-General in Council (as regards the said primary standards and sets of authorized weights and measures) and the local Government (as regards the said local standards) shall appoint wardens for the custody of the said standards and sets of authorized weights and measures.

Appointment of wardens.

The Governor-General in Council, or the local Government, as the case may be, may at any time suspend or remove any such warden and appoint another person in his stead.

13. All officers of Government, Municipal officers, officers and servants of Railway Companies and persons engaged in businesses or trades, shall, so far as they are required by the rules made under Section 27, submit to a warden for verification the weights, weighing machines, and measures used by them under the provisions of Section 9 or Section 10, and the balances used by them in their dealings at such times, not oftener than once in two years, and pay for such verification such fee as the said rules shall prescribe.

Periodical verification of weights, measures, and balances.

14. Every such warden (so far as he is required by the rules made under Section 27) shall verify, and shall, if requested so to do, correct all weights, weighing machines, and measures purporting to indicate weights or measures authorized under this Act, and all balances, which are brought to him to be verified or corrected, and which appear to him fit for verification or correction.

Warden to verify and correct weights, measures, and balances.

When such weights, machines, measures, or balances are found or made correct and in conformity with the requirements of this Act, he shall certify such correctness and conformity by stamping, engraving, or branding them with the proper mark.

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May refuse to verify or correct things unfit.

15. The warden may deface, or render incapable of use, or refuse to verify, correct, or mark anything so brought which appears to him unfit for verification or correction.

To institute and conduct prosecutions.

16. All prosecutions under this Act shall be instituted and conducted by a warden, or by such person as in each case the warden may appoint in this behalf.

Search for weights, measures, and balances not verified or not correct.

17. On the application of a warden, any officer in charge of a Police station, and in a Presidency town any Inspector or superior officer of Police, may enter any premises or shop within the limits of such station or town for the purpose of inspecting or searching for weights, weighing machines, and measures kept for use under the provisions of Section 9 or 10, and for the purpose of inspecting or searching for the balances kept for use in the dealings of the person occupying such premises or shop.

If such officer find in such premises or shop any such weight, machine, measure or balance which shall not be verified under the provisions herein contained, or in conformity with the requirements of this Act, he may seize the same, and shall forthwith give information of such seizure to the Magistrate having jurisdiction.

Exercise of any of warden's powers.

18. Any of the powers and duties conferred and imposed by this Act on a warden may be exercised and performed by any other officer whom the local Government may from time to time appoint.

V.—Penalties.

Commencement of penal sections.

19. The Governor-General in Council, or the local Government with the previous assent of the Governor-General in Council, may, by notification in the Official *Gazette*, fix the date from which all or any of the provisions of Sections 20, 21, 22, and 24 shall come into force in respect to any district or sub-district, and the said sections shall be of no effect in such district or sub-district except in so far as they shall have so come into force.

Sale of weights, measures, and balances not verified.

20. Whoever sells any weight, weighing machine, or measure purporting to indicate any weight or measure authorized under this Act and directed to be used under Section 9 or 10, or any balance, which weight, machine, measure, or balance shall not have been verified under the provisions herein contained, shall, for every such sale, be liable to a fine not exceeding 5 rupees,

and, in default of payment thereof, to imprisonment for a term not exceeding a week.

Use of weights, measures, and balances not verified but correct.

21. Whoever uses or has in his possession for purposes of business or trade any weight, weighing machine, or measure purporting to indicate any weight or measure authorized under this Act and directed to be used by him under Section 9 or 10, or any balance, which weight, machine, measure or balance being correct and in conformity with the requirements of this Act, shall not have been verified under the provisions herein contained, shall, for every such thing so used or had in possession, be liable to a fine not exceeding 5 rupees,

and, in default of payment thereof, to imprisonment for a term not exceeding a week.

Use of weights, measures, and balances not verified and not correct.

22. Whoever uses or has in his possession, for purposes of business or trade,

any weight or measure other than a weight or measure directed to be used by him under Section 9 or 10, or any machine for the purpose of indicating any weight other than a weight so directed to be used,

or any weight, weighing machine, or measure purporting to indicate any weight or measure authorized under this Act, and directed to be used by him under Section 9 or 10, or any balance, which weight, measure, machine, or balance has not been verified under this Act and is not correct, or is not in conformity with the requirements of this Act,

shall for every such offence be liable to a fine not exceeding 10 rupees,

and, in default of payment thereof, to imprisonment for a term not exceeding a fortnight:

Proviso as to weights and measures of the United Kingdom.

Provided that nothing herein contained shall render it penal to use or to have in possession for purposes of business or trade any weight or measure in accordance with the standards of weights and measures established throughout the United Kingdom of Great Britain and Ireland.

Convictions under Sections 21 and 22 how limited.

23. No person shall be convicted under Section 21 or Section 22 unless the warden shall have proved that weights or measures verified under this Act and suitable for the purposes of the business or trade of such person were publicly

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offered for sale and procurable at a reasonable price in the district or sub-district in which the offence was committed, and at, or immediately before, the time when the offence was committed.

Failure to submit for verification.

24. Whoever fails to submit for verification under Section 13 any weight, weighing machine, or measure used by him under the provisions of Section 9 or Section 10, or any balance used by him in his dealings, shall be liable to a fine not exceeding 50 rupees,

and, in default of payment thereof, to imprisonment for a term not exceeding one month.

Disposal of things in respect to which convictions take place.

25. A Magistrate convicting any person under Section 20, 21, 22, or 24 of this Act, or under Chapter XIII of the Indian Penal Code, (*of offences relating to weighing and measuring*,) may order the thing in respect to which the conviction took place to be brought before a warden, to be dealt with under the provisions of Sections 14 and 15:

Provided that, if the Magistrate consider such thing unfit for verification or correction, he may, instead of ordering it to be brought before a warden, cause it to be defaced or rendered incapable of use.

Counterfeiting warden's marks.

26. Whoever knowingly counterfeits any mark used by a warden under Section 14 shall be punished with imprisonment for a term which may extend to three years, and shall also be liable to fine.

VI.—Miscellaneous.

Power to make rules.

27. The Governor-General in Council may, from time to time, make rules consistent with this Act for regulating the following matters:—

(*a.*) The appointment of wardens;

(*b.*) The guidance of wardens in all matters connected with the performance of their duties;

(*c.*) The provision, re-placement, custody, and use of the standards;

(*d.*) The method of verifying local standards and weights, weighing machines, and measures authorized under this Act, and balances, and of certifying such verification;

(*e.*) The errors which may be tolerated in weights, weighing machines, and measures authorised under this Act, and in balances;

(*f.*) The shapes, proportions, and dimensions to be given to weights, weighing machines, and measures authorized under this Act, and to balances, and the materials of which they may be made;

(*g.*) The marking on weights and measures authorized under this Act of their several denominations;

(*h.*) The conditions under which Government offices, Municipal bodies, Railway Companies, and persons engaged in businesses or trades, shall be subject to inspection and verification of the weights, weighing machines, and measures authorized under this Act, and of the balances used or sold by them;

(*i.*) The fees to be paid for verifying, correcting, and certifying the verification of weights, weighing machines, and measures authorized under this Act, and of balances.

Publication of rules.

28. Such rules shall be published in the *Gazette of India*.

Commencement of rules.

And the Governor-General in Council, or the local Government with the previous assent of the Governor-General in Council, may, by notification in the Official *Gazette*, declare that, from and after a day to be named therein, all or any of the said rules shall come into force in respect of any Government office, Municipal body, or Railway Company, or of the persons engaged in any specified business or trade in any district or sub-district, and thereupon to the extent specified in such notification, such rules or rule shall have the force of law.

Recovery of fines and fees.

29. All fines imposed under this Act may be recovered, if for offences committed outside the local limits of the towns of Calcutta, Madras, and Bombay, in the manner prescribed by the Code of Criminal Procedure, and, if for offences committed within those limits, in the manner prescribed by any Act regulating the Police of such towns in force for the time being.

All fees payable under this Act shall be recoverable as though they were fines.

Tables of equivalents.

30. The local Government may, from time to time, prepare tables of the equivalents of weights and measures, other than those authorized under this Act, in terms of the weights and measures so authorized and the equivalents so stated, after notification in the local Official *Gazette*, shall be deemed the true equivalents.

WHITLEY STOKES,

Secy. to the Council of the Govr.-Genl. for making Laws and Regulations.

Re-published by order of His Excellency the Governor in Council.

R. S. ELLIS,

Chief Secretary.

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